### Off

#### LINK—THE AFF FETISHIZES THE LAW AND ITS ABILITY TO RESOLVE PRESIDENTIAL POWERS, THEIR CALL RESULTS IN A RETURN TO LAW THAT DESTROYS THE POSSIBILITY FOR RADICAL POLITICS

NEOCLEOUS 2006

(Mark Neocleous, Politics & History @ Brunel University, “the Problem with Normality”, Alternatives, no. 31 //wyo-tjc)

To criticize the use of emergency powers in terms of a suspension of the law, then, is to make the mistake of counterpoising normality and emergency, law and violence. In separating “normal” from “emergency,” with the latter deemed “exceptional,” this approach parrots the conventional wisdom that posits normalcy and emergency as two discrete and separable phenomena. This essentially liberal paradigm assumes that there is such a thing as “normal” order governed by rules, and that the emergency constitutes an “exception” to this normality. “Normal” here equates with the separation of powers, entrenched civil liberties, an ongoing debate about public policy and law, and the rule of law, while “emergencies” are thought to require strong executive rule, little time for discussion, and are premised on the supposedly necessary suspension of the law and thus the discretion to suspend key liberties and rights. But this rests on two deeply ideological assumptions: first, the assumption that emergency rule is aberrational; and, second, an equation of the emergency/nonemergency dichotomy with a distinction between constitutional and nonconstitutional action. Thus liberalism seeks to separate emergency rule from the normal constitutional order, thereby preserving the Constitution in its pristine form while providing the executive with the power to act in an emergency.47 But the historical evidence suggests that emergency powers are far from exceptional; rather, they are an ongoing aspect of normal political rule. Emergency, in this sense, is what emerges from the rule of law when violence needs to be exercised and the limits of the rule of law overcome. The genealogy of “emergency” is instructive here. “Emergency” has its roots in the idea of “emerge.” The Oxford English Dictionary suggests that “emerge” connotes “the rising of a submerged body out of the water” and “the process of coming forth, issuing from concealment, obscurity, or confinement.” Both these meanings of “emerge” were once part of the meaning of “emergency,” but the first is now rare and the second obsolete. Instead, the modern meaning of “emergency” has come to the fore, namely a sudden or unexpected occurrence demanding urgent action and, politically speaking, the term used to describe a condition close to war in which the normal constitution might be suspended. But what this tells us is that in “emergency” lies the idea of something coming out of concealment or issuing from confinement by certain events. This is why “emergency” is a better category than exception: Where “emergency” has this sense of “emergent,” exception instead implies a sense of ex capere, that is, of being taken outside. Far from being outside the rule of law, emergency powers emerge from within it. They are thus as important as the rule of law to the political management of the modern state. There is, however, an even wider argument to be made. The idea that the permanent emergency involves a suspension of the law encourages the idea that resistance must involve a return to legality, a return to the normal mode of governing through the rule of law. But this involves a serious misjudgment in which it is simply assumed that legal procedures, both international and domestic, are designed to protect human rights from state violence. Law itself comes to appear largely unproblematic. What this amounts to is what I have elsewhere called a form of legal fetishism, in which law becomes a universal answer to the problems posed by power. Law is treated as an independent or autonomous reality, explained according to its own dynamics. This produces the illusion that law has a life of its own, abstracting the rule of law from its origins in class domination and oppression and obscuring the ideological mystification of these processes in the liberal trumpeting of the rule of law.48 To demand the return to the “rule of law” is to seriously misread the history of the relation between the rule of law and emergency powers and, consequently, to get sucked into a less-than-radical politics in dealing with state violence. Part of what I am suggesting is that emergency measures, as state violence, are part of the everyday exercise of powers, working alongside and from within rather than against the rule of law, as part of a unified political strategy in the fabrication of social order.

#### Egalitarian politics is not real and not possible within the confines of the nation state- the state demands that woman give up her sexual difference to become a citizen, to become “neuter”, and to become incorporated into the masculine universal- women cannot participate in the law or judicial circuits because they have no language

Fermon 98

[Nicole Ferman, 1998, Women on the Global Market: Irigaray and the Democratic State, Diacritics, Vol. 28, No. 1, Irigaray and the Political Future of Sexual Difference¶ (Spring, 1998), pp. 120-137¶ uwyo//amp]

Best known for her subtle interrogation of philosophy and psychoanalysis, Luce Irigaray ¶ clearly also conducts a dialogue with the political, proposing that women's erasure from ¶ culture and society invalidates all economies, sexual or political. Because woman has ¶ disappeared both figuratively and literally from society [see Sen, "More Than 100 Million ¶ Women Are Missing"], Irigaray conceives the contemporary ethical project as a recall to ¶ difference rather than equality, to difference between women and men-that is, sexual ¶ difference. She characterizes relations between men and women as market relations in ¶ which women are commodities, objects, but never subjects of exchange, objects to men ¶ but not to themselves: women do not belong to themselves but exist "to keep relationships ¶ among men running smoothly" [TS 192]. Women under these conditions require imagi- ¶ native ways to reconfigure the self, to subvert the melancholy and regression of ¶ masculinist economies and envisage a future in which women would not be ashamed of ¶ the feminine, would experience it as a positivity worth emulating. ¶ Irigaray contends that after the gains of egalitarian politics are carefully examined, ¶ the inclusion of women in the political arena has failed to take into account women's ¶ distinct and different position from men, and from each other, as well as perpetuating the ¶ fiction of the "neutral" citizen, the ahistorical individual citizen of the nation-state. It is ¶ that fiction Irigaray dispels in her critique of liberal democratic politics and its creation, ¶ "citizens who are neuter in regard to familial singularity, its laws, and necessary sexual ¶ difference" [SG 112] in order to benefit the State and its laws. The subject is male; the ¶ citizen is neuter. Who is the female citizen in contemporary society? What is the ethical ¶ elaboration of the contractual relations between women and men, and between sexed ¶ individuals and the community? How do women imagine a distinct set of rights and ¶ responsibilities based on self-definition and autonomy, given the particular strictures of ¶ contemporary politics-that is, the market-driven, antidemocratic nature of the current ¶ economic national and global forces? Irigaray suggests that "the return of women to ¶ collective work, to public places, to social relations, demands linguistic mutations" and ¶ profound transformations, an embodied imagination with force and agency in civil life ¶ [TD 65]. ¶ Irigaray warns that if civil and political participation is construed in overly narrow ¶ terms, if focus is on economic or judicial "circuits" alone, we overlook the symbolic ¶ organization of power-women risk losing "everything without even being acknowl- ¶ edged" [TD 56]. Instead an interval of recognition can expand the political to include the ¶ concerns and activities of real women, lest silence imply consent to sexual neutrality, or ¶ more likely, to women's obliteration under men's interests and concerns. Women's ¶ insistence on self-definition and wage labor, on love and justly remunerated work, ¶ testifies to the obduracy of women's difference, one that is not likely to disappear. The ¶ patriarchal family is still the legal norm, even when certain exceptions are made, while ¶ enduring questions regarding women's health and children's physical welfare as priori- ¶ ties beyond market considerations are consigned to legislative obfuscation, still a political ¶ afterthought. Instead, in the US the liberal state removes the slender welfare net specific ¶ to women and children, Aid to Families with Dependent Children, and fails to provide ¶ medical coverage to those who are among the most vulnerable of its citizens. Women ¶ without access to the legal protection of sex-neutral citizenship, poor working women ¶ without language (the money for an effective "mouthpiece" to represent their distress in ¶ a court of law), are further disempowered by liberal politics' insistence on sexual ¶ neutrality-that is, on repression or amnesia regarding the lived experiences of women. ¶ Sexual difference is key to any project of self-definition by women. Irigaray insists ¶ on the sexual nature of this self-definition, not solely for its obvious procreative necessity, ¶ but because the natural world is a source of renewal and fecundity which requires attentive ¶ interrogation and respect [SG 15]. This rebirth seems alien to the structure of male politics, ¶ which instead seem to provoke disasters (Bhopal, Chernobyl, or the current runaway ¶ jungle fires of Indonesia, courtesy of commercial logging, spreading thick pollution to ¶ neighboring countries) and untimely death.' We talk about social justice and forget its ¶ origins in nature and not merely as an engagement between men in abstraction. Irigaray ¶ believes that recognition and respect of difference between the sexes is prior to productive ¶ and generative relations between women, between men, and between men and women. ¶ Sexual difference is universal and allows us to participate in "an immediate natural given, ¶ and it is a real and irreducible component of the universal" [ILTY 47]. It is this prior ¶ recognition of two, rather than the One that has dominated world politics and thought, ¶ which must be acknowledged, along with the possibility of a political economy of ¶ abundance, not only that of man-made scarcity then attributed to nature. This melancholic ¶ (male) script pays romantic tribute to motherhood in the abstract without due recognition ¶ of the relations between real mothers and children, thus failing to properly acknowledge ¶ and protect mother or child. Our ability to address the specifics of race, ethnicity, and ¶ religious and other differences with respect hinges on our ability to acknowledge and ¶ respect the feminine, to see it as a source of invention and possibilities. To do so would ¶ of course affect relations between the sexes, "men and women perhaps... communicat[ing] ¶ for the first time if two different genders are affirmed," it would allow a new configuration ¶ rather than continuing the present regime: "the globalization and universalization of ¶ culture ... ungovernable and beyond our control" [SG 120; ILTY 129].

#### THE LAWS OF WAR LEGITIMIZE AND PROTECT STATIST FORMS OF VIOLENCE AND CRUSH DISSENT

BERMAN (Prof of Law at Brooklyn Law School) 2004

[Nathaniel, “Privleging Combat?”, Columbia Journal of Transnational Law, p. ln //wyo-tjc]

**Through examining the legal doctrines crucial to defining the combatants' privilege**, in my view the key concept of jus in bello, **this Article seeks to undo the circumlocutions that often block frank discussion of the relationship of law to war. Contrary to conventional wisdom**, I argue that **it is misleading to see law's relationship to war as primarily one of the limitation of organized violence, and even more misleading to see the laws of war as historically progressing toward an ever-greater** **limitation of violence. n6 Instead**, I put forward three central propositions. First, **rather than standing in opposition to war, law has long been directly involved in the construction of war - the construction of war as a separate sphere of human activity in [\*5] which the "normal" rules of social life, codified, for example, in the domestic criminal law regulating violence, do not operate. n7 Rather than opposing violence, the legal construction of war n8 serves to channel violence into certain forms of activity engaged in by certain kinds of people, while excluding other forms** engaged in by other people. n9

#### The splitting of the atom is a symptom of man’s persistence in his refusal to reunite with and affirm his body and the female body-only through this affirmation does the destruction of humynkind become unthinkable

Irigaray 85

[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

To forget being is to forget the air, this first fluid given us gratis and free of interest in the mother's blood, given us again when we are born, like a natural profusion that raises a cry of pain: the pain of a being who comes into the world and is abandoned, forced henceforth to live without the immediate assistance of another body. Unmitigated mourning for the intrauterine nest, elemental homesickness that man will seek to assuage through his work as builder of worlds, and notably of the dwelling which seems to form the essence of his maleness: language. In all his creations, all his works, man always seems to neglect thinking of himself as flesh, as one who has received his body as that primary home (that Gestell, as Heidegger would say, when, in "Logos," the seminar on Heraclitus, he recognizes that what metaphysics has not begun to address is the issue of the body) which determines the possibility of his coming into the world and the potential opening of a horizon of thought, of poetry, of celebration, that also includes the god or gods. The fundamental dereliction in our time may be interpreted as our failure to remember or prize the element that is indispensable to life in all its manifestations: from the lowliest plant and animal forms to the highest. Science and technology are reminding men of their careless neglect by forcing them to consider the most frightening question possible, the question of a radical polemic: the destruction of the universe and of the human race through the splitting of the atom and its exploitation to achieve goals that are beyond our capacities as mortals.

#### The alternative is to reject the narrow and short term demand of the aff for civic participation and reformism in a law that can’t be redeemed in favor of a radical critique of social life starting from the lens of sexual difference

Irigaray 85

[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

Sexual difference is one of the major philosophical issues, if not the issue, of our age. According to Heidegger, each age has one issue to think through, and one only. Sexual difference is prQbably the issue in our time which could be our "salvation" if we thought it through. But, whether I turn to philosophy, to science, or to religion, I find this underlying issue still cries out in vain for our attention. Think of it as an approach that would allow us to check the many forms that destruction takes in our world, to counteract a nihilism that merely affirms the reversal or the repetitive proliferation of status quo values-whether you call them the consumer society, the circularity of discourse, the more or less cancerous diseases of our age, the unreliability of words, the end of philosophy, religious despair or regression to religiosity, scientis tic or technical imperialism that fails to consider the living subject. Sexual difference would constitute the horizon of worlds more fecund than any known to date-at least in the West-and without reducing fecundity to the reproduction of bodies and flesh. For loving partners this would be a fecundity of birth and regeneration, but also the production of a new age of thought, art, poetry, and language: the creation of a new poetics. Both in theory and in practice, everything resists the discovery and affirmation of such an advent or event. In theory, philosophy wants to be literature or rhetoric, wishing either to break with ontology or to regress to the ontological. Using the same ground and the same framework as "first philosophy," working toward its disintegration but without proposing any other goals that might assure new foundations and new works. In politics, some overtures have been made to the world of women. But these overtures remain partial and local: some concessions have been made by those in power, but no new values have been established. Rarely have these measures been thought through and affirmed by women themselves, who consequently remain at the level of critical demands. Has a worldwide erosion of the gains won in women's struggles occurred because of the failure to lay foundations different from those on which the world of men is constructed? Psychoanalytic theory and therapy, the scenes of sexuality as such, are a long way from having effected their revolution. And with a few exceptions, sexual practice today is often divided between two parallel worlds: the world of men and the world of women. A nontraditional, fecund encounter between the sexes barely exists. It does not voice its demands publicly, except through certain kinds of silence and polemics. A revolution in thought and ethics is needed if the work of sexual difference is to take place. We need to reinterpret everything concerning the relations between the subject and discourse, the subject and the world, the subject and the cosmic,' the microcosmic and the macrocosmic. Everything, beginning with the way in which the subject has always been written in the masculine form, as man, even when it claimed to be universal or neutral. Despite the fact that man-at least in French-rather than being neutral, is sexed.

### Off

**The Executive branch should take all necessary measures to expedite the Guantanamo Bay Periodic Review Board's formation and review of indefinitely detained prisoners' cases. The Executive Branch should issue national security waivers for the transfer or repatriation of the eighty-six Guantanamo prisoners currently cleared for release and any prisoners who successfully challenge their status as indefinite detainees. The Executive should direct the Attorney General to inform the D.C. Circuit Court of Appeals that the Department of Justice no longer considers the cleared detainees to be detainable. Any necessary funds that the Executive cannot obtain from the Defense Department should be taken from the Departments of Justice or Homeland Security.**

**Counterplan solves the case without Congressional action and solves backlash against Guantanamo**

Nedra **Pickler 13**, Real Clear Politics writer, Gitmo Closure Elusive, Obama Looks at Other Steps, http://www.realclearpolitics.com/articles/2013/05/02/gitmo\_closure\_elusive\_obama\_looks\_at\_other\_steps\_118219.html#ixzz2dJmceB4s - \* [y] added

Despite President Barack Obama's new vow, closing the Guantanamo Bay prison is still a tough sell in Congress. So **the White House may** **look** instead **toward smaller steps like transferring some terror suspects back overseas.** Shutting down the prison at the U.S. naval base in Cuba is a goal that has eluded Obama since he took office. In his first week, he signed an executive order for its closure, but Congress has used its budgetary power to block detainees from being moved to the United States. Now, with 100 of the 166 prisoners on a hunger strike in protest of their indefinite detention and prison conditions, **Obama** is promising a renewed push before Congress and has ordered a review of his administrative options. The White House **is acknowledging its process to review prisoner cases for possible release has not been implemented quickly enough and** says the president **is considering reappointing a senior official at the State Department to focus on transfers out of the prison.** Guantanamo had slipped down the agenda of the president who promised to close it during his campaign five years ago but has transferred few prisoners out in recent years. Conditions at the camp are tense, with 23 prisoners who are in danger of starving themselves now being force-fed through nasal tubes and some 40 naval medical personnel arriving over the weekend to deal with the strike that shows no sign of ending. While the global community has pressured the United States to shut Guantanamo, most of the American public and their representatives in Congress have been opposed to removing the terror suspects from their isolated captivity. "Guantanamo is not necessary to keep America safe," the president argued at a White House news conference Tuesday. "It is expensive. It is inefficient. It hurts us in terms of our international standing. It lessens cooperation with our allies on counterterrorism efforts. It is a recruitment tool for extremists. It needs to be closed." Obama's comments revived an issue that hasn't been prominent in recent political debate, with some of the most recent national polling more than a year old. An ABC News/Washington Post survey in February 2012 found 70 percent of the public approving of keeping the prison open and a quarter disapproving. Five percent had no opinion. Sen. Lindsey Graham, R-S.C., a leading opponent of closure, responded to Obama's latest call by citing last year's administration report that 28 percent of the roughly 600 released detainees were either confirmed or suspected of later engaging in militant activity. "They're individuals hell-bent on our destruction and destroying our way of life," Graham said in a statement. "There is bipartisan opposition to closing Gitmo." Republicans and several Democrats have repeatedly blocked efforts by Obama to take the initial steps toward closure. **The law that Congress passed** and Obama signed in March to keep the government running **includes a** longstanding **provision that prohibits any money for the transfer** of Guantanamo detainees to the United States or its territories. It also bars spending to overhaul any U.S. facility in the U.S. to house detainees. That makes it essentially illegal for the government to transfer the men it wants to continue holding, including five who were charged before a military tribunal with orchestrating the Sept. 11 attacks. **But that doesn't mean the administration's hands are completely tied.** **Eight[y]-six** **prisoners** **at Guantanamo have been cleared for transfer to other countries**. **Such transfers were common under** President George W. **Bush and at the beginning of the Obama administration**. **They stopped after Congress imposed new security restrictions** over concerns that some prisoners might be released by foreign governments and return to the battlefield. **The administration could get around the restriction by issuing a national security waiver through the Pentagon**, something it hasn't done so far. **Obama signed an executive order two years ago establishing review procedures for detainees to determine if continued detention was warranted**, beginning with hearings before an interagency Periodic Review Board. The order required the reviews to begin by March 2012, **but the administration has yet to announce any hearings.** Obama spokesman Jay Carney said Wednesday that the administration plans to get the board running, "which has not moved forward quickly enough." He also said Obama is considering the reappointment of a special envoy for closing Guantanamo at the State Department, responsible for trying to persuade countries to accept inmates approved for release. The former envoy, Ambassador Daniel Fried, was reassigned earlier this year and not replaced. But Carney said help from Congress is needed to close the prison. "We have to work with Congress and try to convince members of Congress that the overriding interest here, in terms of our national security as well as our budget, is to close Guantanamo Bay," Carney said. House Armed Services Chairman Howard "Buck" McKeon, R-Calif., objected to Obama blaming Congress. "The president faces bipartisan opposition to closing Guantanamo Bay's detention center because he has offered no alternative plan regarding the detainees there, nor a plan for future terrorist captures," McKeon said in a statement. A tough issue is where to send detainees cleared for transfer, particularly the majority who are Yemeni nationals. Obama has banned the transfer of Guantanamo detainees to Yemen since January 2010 because of security concerns after a would-be bomber attempted to blow up a U.S.-bound flight on instructions from al-Qaida operatives in Yemen. Senate Intelligence Chairwoman Dianne Feinstein, D-Calif., who initially supported the suspension of transfers to Yemen, wrote the White House last week urging reconsideration of that policy as part of a renewed effort to transfer all 86 of the cleared detainees. Obama spokesman Carney said Wednesday the Yemen moratorium was among the Guantanamo policies under review. Vijay Padmanabhan, who was a State Department lawyer responsible for Guantanamo-related cases in the Bush administration, said Obama faces three major questions to achieve his goal of shutting Guantanamo. Padmanabhan said Obama needs to figure out what level of risk he's willing to accept in Yemen, come up with a strategy for prosecuting detainees and determine how to handle those who are considered dangerous but for whom there isn't sufficient evidence for prosecution. Obama said Tuesday, "The idea that we would still maintain forever a group of individuals who have not been tried, that is contrary to who we are, it is contrary to our interests, and it needs to stop." Padmanabhan saw that as a potential shift in Obama's thinking. "He's always supported the idea that you should be able to nevertheless detain people indefinitely as combatants," said Padmanabhan, now a professor at Vanderbilt Law School. "For the first time, he's challenging a little bit that later proposition. He's suggesting that maybe it's the case we should be thinking about whether we should be detaining anyone that we aren't capable of prosecuting for the rest of their life." Resuming transfers through the waivers could help ease some of the despair among the men held at the U.S. base in Cuba, said Jennifer Daskal, a fellow and adjunct law professor at Georgetown University who worked on an Obama administration task force addressing detainee policy issues. The administration could also increase its efforts to find other countries willing to accept Guantanamo prisoners and begin reevaluating whether it's possible now to release any of the 46 men who are slated for indefinite detention, Daskal said. "The idea that it could be closed tomorrow is completely unrealistic," she said. "But **there** certainly **are things that the administration can do** even **without congressional action** **that would** **begin** the process of at least **winnowing down the numbers at Guantanamo and** hopefully **alleviating** **some of the tension**."

### Off

#### Obama has successfully fended off sanctions, FOR NOW, any lags create an aggressive push that will be veto proof

Rubin 2-7

(Jennifer, Washington Post. “Menendez’s blasts Obama’s Iran policy” 2-7-14 http://www.washingtonpost.com/blogs/right-turn/wp/2014/02/07/menendezs-blasts-obamas-iran-policy///wyoccd)

The administration has a big problem on Iran. It has for now successfully fended off sanctions, but in doing so it helped forge consensus about the flaws in its approach and set the scene for a major showdown with Congress when, as everyone but Secretary of State John Kerry expects, Iran refuses to agree to even minimal steps to dismantle its nuclear weapons program. In other words, it has set itself up for failure with no back-up plan.Thursday, Sen. Robert Menendez (D-N.J.), denied by his majority leader a vote on a sanctions bill that would pass with more than 70 votes, explained in detail the administration’s gross mishandling of negotiations. It is worth reading in full, but some portions deserve emphasis. After describing in detail the requirements the administration, the United Nations and former administration official Dennis Ross have confirmed are needed to prevent a nuclear-capable Iran, the New Jersey Democrat summed up the flaws in the interim deal:¶ Iran is insisting on keeping core elements of its programs – enrichment, the Arak heavy-water reactor, the underground Fordow facility, and the Parchin military complex. And, while they may be subject to safeguards — so they can satisfy the international community in the short-run – if they are allowed to retain their core infrastructure, they could quickly revive their program sometime in the future. At the same time, Iran is seeking to reverse the harsh international sanctions regimes against them. Bottom line: They dismantle nothing. We gut the sanctions.¶ Directly contradicting Kerry’s assurances, Menendez states:¶ Since the interim deal was signed there was an immediate effort by many nations – including many European nations — to revive trade and resume business with Iran. There have been recent headlines that the Russians may be seeking a barter deal that could increase Iran’s oil exports by 50 percent. That Iran and Russia are negotiating an oil-for-goods deal worth $1.5 billion a month — $18 billion a year – which would significantly boost Iran’s oil exports by 500,000 barrels a day in exchange for Russian goods . . . Iran’s economy is recovering. . . . Sanctions relief — combined with the “open for business sign” that Iran is posting — is paying returns.¶ And as for the potential for sanctions at the end of the six months, Menendez states definitively that this would be too late. It is quite an extraordinary assertion — in essence, that barring a miraculous negotiated solution, we’re now in the mode of “containment,” precisely what the president swore up and down he’d never allow:¶ My legislation – cosponsored by 59 Senators – would simply require that Iran act in good faith, adhering to the implementing agreement, not engage in new acts of terror against American citizens or U.S, property — and not conduct new ballistic missile tests with a range beyond 500 kilometers.¶ The legislation is not the problem. Congress is not the problem. Iran is the problem. We need to worry about Iran, not the Congress. We need to focus on Iran’s long history of deception surrounding its nuclear program and how this should inform our approach to reaching a comprehensive deal. . . .New sanctions are not a spigot that can be turned off-and-on as has been suggested.¶ Even if Congress were to take-up and pass new sanctions at the moment of Iran’s first breach of the Joint Plan of Action, there is a lag time of at least 6 months to bring those sanctions on line — and at least a year for the real impact to be felt.¶ This would bring us beyond the very short-time Iran would need to build a nuclear bomb, especially since the interim agreement does not require them neither to dismantle anything, and freezes their capability as it stands today.¶ So let everyone understand — if there is no deal we won’t have time to impose new sanctions before Iran could produce a nuclear weapon. . . .¶ The simple and deeply troubling fact is — Iran is literally weeks to months away from breakout, and the parameters of the final agreement — laid out in the Joint Plan of Action — do not appear to set Iran’s development-capacity back by more than a few weeks. [Emphasis added.]¶ He concludes, “The concerns I have raised here are legitimate. They are not — as the President’s press secretary has said – ‘war-mongering.’ . . . Iran says it won’t negotiate with a gun to its head. Well, I would suggest it is Iran that has put a nuclear gun to the world’s head. So, at the end of the day, name-calling is not an argument, nor is it sound policy. It is a false choice to say a vote for sanctions is equivalent to war-mongering. . . . The ball is in the Administration’s court, not in Congress’.”¶ So then, in the estimation of the Senate’s Democratic foreign affairs chairman the interim deal is fatally flawed, a final deal must achieve things Iran has no intention of giving us and it will be too late to pass sanctions in six months. He has in essence accused the president of setting us on a road to containment since the president and Senate Majority Leader Harry Reid will not permit a sanctions vote that is the last hope to bring Iran to heel.¶ I wonder what the point of the speech really was. Does he think Reid will bend? Does he have more Democrats on board to force a vote? Does he think sanctions proponents will say, ‘What a nice speech. He’ll be on the ball when the talks fail“? (But Menendez’s entire point was when the talks fail, it will be too late.)¶ In six-months, when the talks fail and/or another six-months are declared necessary for a deal, Congress then can try to restart sanctions, I suppose. But Menendez says that won’t be effective. The alternative is accepting a nuclear-capable Iran or an Israeli military strike. The latter is becoming the most likely scenario if Menendez’s assessment of the timeline is correct. Obama will therefore have brought about the one thing he was desperate to avoid — a Middle East war.

#### Fighting to defend his war power will sap Obama’s capital- trades off with agenda

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

**While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 **In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61 **When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Loss of political capital causes Democrats flop and support sanctions

Kraushaar 1-22

(Josh Kraushaar, staff writer at the National Journal. “The Iran Deal Puts Pro-Israel Democrats in a Bind” 1-22-14 http://www.nationaljournal.com/magazine/the-iran-deal-puts-pro-israel-democrats-in-a-bind-20131122//wyoccd)

All of this puts Democrats, who routinely win overwhelming support from Jewish Americans on Election Day, in an awkward position. Do they stand with the president on politically sensitive foreign policy issues, or stake their own course? That difficult dynamic is currently playing out in Congress, where the Obama administration is resisting a Senate push to maintain tough sanctions against Iran. This week, Obama met with leading senators on the Banking and Foreign Relations committees to dissuade them from their efforts while diplomacy is underway. "There's a fundamental disagreement between the vast majority of Congress and the president when it comes to increasing Iran sanctions right now," said one Democratic operative involved in the advocacy efforts. "Pro-Israel groups, like AIPAC, try to do things in a bipartisan way; they don't like open confrontation. But in this instance, it's hard." That awkwardness has been evident in the lukewarm reaction from many of Obama's Senate Democratic allies to the administration's outreach to Iran. Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey said last week he was concerned that the administration seems "to want the deal almost more than the Iranians." Normally outspoken Sen. Chuck Schumer of New York, a reliable ally of Israel, has been conspicuously quiet about his views on the negotiations. In a CNN interview this month, Democratic Rep. Debbie Wasserman Schultz of Florida, whose job as chairwoman of the Democratic National Committee is to defend the president, notably declined to endorse the administration's approach, focusing instead on Obama's past support of sanctions. This, despite the full-court press from Secretary of State John Kerry, a former congressional colleague. On Tuesday, after meeting with Obama, Menendez and Schumer signed a bipartisan letter to Kerry warning the administration about accepting a deal that would allow Iran to continue its nuclear program. The letter was also signed by Sens. John McCain, R-Ariz., Lindsey Graham, R-S.C., Susan Collins, R-Maine, and Robert Casey, D-Pa. Democrats, of course, realize that the president plays an outsized role in the policy direction of his party. Just as George W. Bush moved the Republican Party in a more hawkish direction during his war-riven presidency, Obama is nudging Democrats away from their traditionally instinctive support for the Jewish state. "I can't remember the last time the differences [between the U.S. and Israel] were this stark," said one former Democratic White House official with ties to the Jewish community. "There's now a little more freedom [for progressive Democrats] to say what they want to say, without fear of getting their tuchus kicked by the organized Jewish community." A Gallup survey conducted this year showed 55 percent of Democrats sympathizing with the Israelis over the Palestinians, compared with 78 percent of Republicans and 63 percent of independents who do so. A landmark Pew poll of American Jews, released in October, showed that 35 percent of Jewish Democrats said they had little or no attachment to Israel, more than double the 15 percent of Jewish Republicans who answered similarly. At the 2012 Democratic National Convention, many delegates booed a platform proposal supporting the move of the U.S. Embassy in Israel from Tel Aviv to Jerusalem. In 2011, Democrats lost Anthony Weiner's heavily Jewish, solidly Democratic Brooklyn House seat because enough Jewish voters wanted to rebuke the president's perceived hostility toward Israel. Pro-Israel advocacy groups rely on the mantra that support for Israel carries overwhelming bipartisan support, a maxim that has held true for decades in Congress. But most also reluctantly acknowledge the growing influence of a faction within the Democratic Party that is more critical of the two countries' close relationship. Within the Jewish community, that faction is represented by J Street, which positions itself as the home for "pro-Israel, pro-peace Americans" and supports the Iran negotiations. "Organizations that claim to represent the American Jewish community are undermining [Obama's] approach by pushing for new and harsher penalties against Iran," the group wrote in an action alert to its members. Some supporters of Israel view J Street with concern. "There's a small cadre of people that comes from the progressive side of the party that are in the business of blaming Israel first. There's a chorus of these guys," said a former Clinton administration foreign policy official. "But that doesn't make them the dominant folks in the policy space of the party, or the Hill." Pro-Israel activists worry that one of the ironies of Obama's situation is that as his poll numbers sink, his interest in striking a deal with Iran will grow because he'll be looking for any bit of positive news that can draw attention away from the health care law's problems. Thus far, Obama's diminished political fortunes aren't deterring Democrats from protecting the administration's prerogatives. Congressional sources expect the Senate Banking Committee, chaired by South Dakota Democrat Tim Johnson, to hold off on any sanctions legislation until there's a resolution to the Iranian negotiations. But if Obama's standing continues to drop, and if Israel doesn't like the deal, don't be surprised to see Democrats become less hesitant about going their own way.

#### Tanks Geneva and causes Israel strikes

**Leubsdorf, 1/22/14 –** former Washington Bureau chief of The Dallas Morning News (Carl, Dallas Morning News, “Hard-liners’ mischief-making threatens Iran nuke talks” <http://www.dallasnews.com/opinion/columnists/carl-p-leubsdorf/20140122-carl-leubsdorf-hard-liners-mischief-making-threatens-iran-nuke-talks.ece>)

The measure’s most dangerous provision, according to various published reports, reads as follows:¶ “If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States should stand with Israel and provide in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic and economic support to the Government of Israel in the defense of its territory, people and existence.”¶ While not requiring U.S. action, critics note the language suggests the mere existence of an Iranian “nuclear weapon program” would be sufficient to compel Israel to attack “in legitimate self-defense.” And it says the U.S. “should” provide such an Israeli attack with “military, diplomatic and economic support” according to U.S. laws and congressional constitutional responsibility.¶ In effect, that could enable the hard-liners who control the Israeli government to kill the talks or try to drag the United States into a war against Iran if they decide that Iranian compliance with the current agreement is insufficient to protect Israel.¶ The measure would also enable Congress to kill any agreement the West reaches with Iran by overriding Obama’s decision to waive existing sanctions.

#### Global war

-Strikes fail: intel gap and buried

-Iran second strike = nuclear

-Economy: stops oil

-Hegemony: Balancers

-Miscalc/Escalation: Forces on nuclear alter

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.¶ For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.¶ Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.¶ All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well.¶ By now, Iran has also built redundant command and control systems and nuclear facilities, devloped early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.¶ Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond.¶ Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war.¶ During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve.¶ Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.¶ In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.¶ An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.¶ Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.¶ From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops.¶ Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony.¶ Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.¶ Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.¶ If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.¶ While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

## Case

### Case

#### Their demand detainees are released and returned to the normal state cause a less than radical politics that solves none of their impacts—legal fetishism reinscribes governmentality

NEOCLEOUS (Politics & History @ Brunel University) 2006

[Mark, “the Problem with Normality”, Alternatives, no. 31 //wyo-tjc]

To criticize the use of emergency powers in terms of a suspension of the law, then, is to make the mistake of counterpoising normality and emergency, law and violence. In separating “normal” from “emergency,” with the latter deemed “exceptional,” this approach parrots the conventional wisdom that posits normalcy and emergency as two discrete and separable phenomena. This essentially liberal paradigm assumes that there is such a thing as “normal” order governed by rules, and that the emergency constitutes an “exception” to this normality. “Normal” here equates with the separation of powers, entrenched civil liberties, an ongoing debate about public policy and law, and the rule of law, while “emergencies” are thought to require strong executive rule, little time for discussion, and are premised on the supposedly necessary suspension of the law and thus the discretion to suspend key liberties and rights. But this rests on two deeply ideological assumptions: first, the assumption that emergency rule is aberrational; and, second, an equation of the emergency/nonemergency dichotomy with a distinction between constitutional and nonconstitutional action. Thus liberalism seeks to separate emergency rule from the normal constitutional order, thereby preserving the Constitution in its pristine form while providing the executive with the power to act in an emergency.47 But the historical evidence suggests that emergency powers are far from exceptional; rather, they are an ongoing aspect of normal political rule. Emergency, in this sense, is what emerges from the rule of law when violence needs to be exercised and the limits of the rule of law overcome. The genealogy of “emergency” is instructive here. “Emergency” has its roots in the idea of “emerge.” The Oxford English Dictionary suggests that “emerge” connotes “the rising of a submerged body out of the water” and “the process of coming forth, issuing from concealment, obscurity, or confinement.” Both these meanings of “emerge” were once part of the meaning of “emergency,” but the first is now rare and the second obsolete. Instead, the modern meaning of “emergency” has come to the fore, namely a sudden or unexpected occurrence demanding urgent action and, politically speaking, the term used to describe a condition close to war in which the normal constitution might be suspended. But what this tells us is that in “emergency” lies the idea of something coming out of concealment or issuing from confinement by certain events. This is why “emergency” is a better category than exception: Where “emergency” has this sense of “emergent,” exception instead implies a sense of ex capere, that is, of being taken outside. Far from being outside the rule of law, emergency powers emerge from within it. They are thus as important as the rule of law to the political management of the modern state. There is, however, an even wider argument to be made. The idea that the permanent emergency involves a suspension of the law encourages the idea that resistance must involve a return to legality, a return to the normal mode of governing through the rule of law. But this involves a serious misjudgment in which it is simply assumed that legal procedures, both international and domestic, are designed to protect human rights from state violence. Law itself comes to appear largely unproblematic. What this amounts to is what I have elsewhere called a form of legal fetishism, in which law becomes a universal answer to the problems posed by power. Law is treated as an independent or autonomous reality, explained according to its own dynamics. This produces the illusion that law has a life of its own, abstracting the rule of law from its origins in class domination and oppression and obscuring the ideological mystification of these processes in the liberal trumpeting of the rule of law.48 To demand the return to the “rule of law” is to seriously misread the history of the relation between the rule of law and emergency powers and, consequently, to get sucked into a less-than-radical politics in dealing with state violence. Part of what I am suggesting is that emergency measures, as state violence, are part of the everyday exercise of powers, working alongside and from within rather than against the rule of law, as part of a unified political strategy in the fabrication of social order.

#### AGAMBEN IS WRONG… BIOPOWER DOESN’T CAUSE EXCEPTION OR VIOLENCE, BUT MAINTAINS LIFE

Ojakangas 05

[Mike, Helsinki Collegium for Advanced Studies, “Impossible Dialogues on Bio-Power: Agamben and Foucault,” Foucault Studies 2 (5-28), www.foucault-studies.com/no2/ojakangas1.pdf, acc. 9-24-06//uwyo-ajl]

In fact, the history of modern Western societies would be quite incomprehensible without taking into account that there exists a form of power which refrains from killing but which nevertheless is capable of directing people’s lives. The effectiveness of bio-power can be seen lying precisely in that it refrains and withdraws before every demand of killing, even though these demands would derive from the demand of justice. In biopolitical societies, according to Foucault, capital punishment could not be maintained except by invoking less the enormity of the crime itself than the monstrosity of the criminal: “One had the right to kill those who represented a kind of biological danger to others.” However, given that the “right to kill” is precisely a sovereign right, it can be argued that the bio-political societies analyzed by Foucault were not entirely bio-political. Perhaps, thereneither has been nor can be a society that is entirely bio-political. Nevertheless, the fact is that present-day European societies have abolished capital punishment. In them, there are no longer exceptions. It is the very “right to kill” that has been called into question. However, it is not called into question because of enlightened moral sentiments, but rather because of the deployment of bio-political thinking and practice. For all these reasons, Agamben’s thesis, according to which the concentration camp is the fundamental bio-political paradigm of the West, has to be corrected. The bio-political paradigm of the West is not the concentration camp, but, rather, the present-day welfare society and, instead of homo sacer, the paradigmatic figure of the bio-political society can be seen, for example, in the middle-class Swedish social-democrat. Although this figure is an object – and a product – of the huge bio-political machinery, it does not mean that he is permitted to kill without committing homicide. Actually, the fact that he eventually dies, seems to be his greatest “crime” against the machinery. (In bio-political societies, death is not only “something to be hidden away,” but, also, as Foucault stresses, the most “shameful thing of all”. ) Therefore, he is not exposed to an unconditional threat of death, but rather to an unconditional retreat of all dying. In fact, the bio-political machinery does not want to threaten him, but to encourage him, with all its material and spiritual capacities, to live healthily, to live long and to live happily – even when, in biological terms, he “should have been dead longago”. This is because biopower is not bloody power over bare life for its own sake but pure power over all life for the sake of the living. It is not power but the living, the condition of all life – individual as well as collective – that is the measure of the success of bio-power.

#### A) TURNS Case—

#### The aff’s ATTEMPT TO REPROJECT LAW INTO THE WAR ON TERROR PRESUMES LAW IS THE ABSENCE OF THE EXCEPTION, MISTAKING THE INTRINSIC LINK BETWEEN LAW AND SOVEREIGNTY. THIS RENDERS SOVEREIGN POWER INVISIBLE, ALLOWING FAR MORE INSIDIOUS EXTENSIONS OF THE STATE OF EXCEPTION

KOHN (Prof. Poli Sci at Univ. Florida) 2006

[Margaret, “Bare Life and the Limits of Law”, Theory & Event, Vol. 9, No. 2 //wyo-tjc]

Agamben's critique of the USA Patriot Act, at least initially seems to bare a certain resemblance to the position taken by ACLU-style liberals in the United States. When he notes that "detainees" in the war on terror are the object of pure de facto rule and compares their legal status to that of Holocaust victims, he implicitly invokes a normative stance that is critical of the practice of turning juridical subjects into bare life, e.g. life that is banished to a realm of potential violence. For liberals, "the rule of law" involves judicial oversight, which they identify as one of the most appropriate weapons in the struggle against arbitrary power. Agamben makes it clear, however, that he does not endorse this solution. In order to understand the complex reasons for his rejection of the liberal call for more fairness and universalism we must first carefully reconstruct his argument.¶ State of Exception begins with a brief history of the concept of the state of siege (France), martial law (England), and emergency powers (Germany). Although the terminology and the legal mechanisms differ slightly in each national context, they share an underlying conceptual similarity. The state of exception describes a situation in which a domestic or international crisis becomes the pretext for a suspension of some aspect of the juridical order. For most of the bellicose powers during World War I this involved government by executive decree rather than legislative decision. Alternately, the state of exception often implies a suspension of judicial oversight of civil liberties and the use of summary judgment against civilians by members of the military or executive.¶ Legal scholars have differed about the theoretical and political significance of the state of exception. For some scholars, the state of exception is a legitimate part of positive law because it is based on necessity, which is itself a fundamental source of law. Similar to the individual's claim of self-defense in criminal law, the polity has a right to self-defense when its sovereignty is threatened; according to this position, exercising this right might involve a technical violation of existing statutes (legge) but does so in the name of upholding the juridical order (diritto). ¶ The alternative approach, which was explored most thoroughly by Carl Schmitt in his books Political Theology and Dictatorship, emphasizes that declaring the state of exception is the perogative of the sovereign and therefore essentially extra-juridical. For Schmitt, the state of exception always involves the suspension of the law, but it can serve two different purposes. A "commissarial dictatorship" aims at restoring the existing constitution and a "sovereign dictatorship" constitutes a new juridical order. Thus, the state of exception is a violation of law that expresses the more fundamental logic of politics itself. Following Derrida, Agamben calls this force-of-law.¶ What exactly is the force-of-law? Agamben suggests that the appropriate signifier would be force-of-law, a graphic reminder of the fact that the concept emerges out of the suspension of law. He notes that it is a "mystical element, or rather a fictio by means of which law seeks to annex anomie itself." It expresses the fundamental paradox of law: the necessarily imperfect relationship between norm and rule. The state of exception is disturbing because it reveals the force-of-law, the remainder that becomes visible when the application of the norm, and even the norm itself, are suspended.¶ At this point it should be clear that Agamben would be deeply skeptical of the liberal call for more vigorous enforcement of the rule of law as a means of combating cruelties and excesses carried out under emergency powers. His brief history of the state of exception establishes that the phenomenon is a political reality that has proven remarkably resistant to legal limitations. Critics might point out that this descriptive point, even if true, is no reason to jettison the ideal of the rule of law. For Agamben, however, the link between law and exception is more fundamental; it is intrinsic to politics itself. The sovereign power to declare the state of exception and exclude bare life is the same power that invests individuals as worthy of rights. The two are intrinsically linked. The disturbing implication of his argument is that we cannot preserve the things we value in the Western tradition (citizenship, rights, etc.) without preserving the perverse ones. ¶ Agamben presents four theses that summarize the results of his genealogical investigation. (1) The state of exception is a space devoid of law. It is not the logical consequence of the state's right to self-defense, nor is it (qua commissarial or sovereign dictatorship) a straightforward attempt to reestablish the norm by violating the law. (2) The space devoid of law has a "decisive strategic relevance" for the juridical order. (3) Acts committed during the state of exception (or in the space of exception) escape all legal definition. (4) The concept of the force-of-law is one of the many fictions, which function to reassert a relationship between law and exception, nomos and anomie. ¶ The core of Agamben's critique of liberal legalism is captured powerfully, albeit indirectly, in a quote from Benjamin's eighth thesis on the philosophy of history. According to Benjamin, (t)he tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must attain a concept of history that accords with this fact. Then we will clearly see that it is our task to bring about the real state of exception, and this will improve our position in the struggle against fascism. (57)¶ Here Benjamin endorses the strategy of more radical resistance rather than stricter adherence to the law. He recognizes that legalism is an anemic strategy in combating the power of fascism. The problem is that conservative forces had been willing to ruthlessly invoke the state of exception in order to further their agenda while the moderate Weimar center-left was paralyzed; frightened of the militant left and unwilling to act decisively against the authoritarian right, partisans of the rule of law passively acquiesced to their own defeat. Furthermore, the rule of law, by incorporating the necessity of its own dissolution in times of crisis, proved itself an unreliable tool in the struggle against violence.¶ From Agamben's perspective, the civil libertarians' call for uniform application of the law simply denies the nature of law itself. He insists, "From the real state of exception in which we live, it is not possible to return to the state of law. . ." (87) Moreover, by masking the logic of sovereignty, such an attempt could actually further obscure the zone of indistinction that allows the state of exception to operate. For Agamben, law serves to legitimize sovereign power. Since sovereign power is fundamentally the power to place people into the category of bare life, the law, in effect, both produces and legitimizes marginality and exclusion.

#### Turn’s case- aff’s legal apologism extends processes they oppose and destroys critical energies necessary for sources of oppression and violence

JOHNS (Univ. of Sydney, Faculty of Law) 2006

[Fleur, “Guantanamo Bay and the Annihilation of the Exception”, European Journal of International Law, Vol. 16, No. 4 //wyo-tjc]

In arguing against Agamben and others that the experience of the exception anticipated by Schmitt is in retreat at the Guantánamo Bay Naval Base, it is important to acknowledge the extent to which the legal order of Guantánamo Bay often looks and sounds like a domain operating as one of ‘pure’ sovereign discretion and thus exceptionalism. Lawyers for the US Justice Department have asserted that the US President has unlimited discretion to determine the appropriate means for interrogating enemy combatants detained at Guantánamo Bay and elsewhere.97 Likewise, counsel for the US Government contended, before the US Supreme Court, that ‘[a] commander’s wartime determination that an individual is an enemy combatant is a quintessentially military judgment, representing a core exercise of the Commander-in-Chief authority’.98 By assuming the affect of exceptionalism, the normative order of Guantánamo Bay has soaked up critical energies with considerable effectiveness, for it is the exception that rings liberal alarm bells. Accordingly, the focus falls on less than 600 persons being abused in Cuba, rather than upon the millions subjected to endemic sexual, physical and substance abuse in prisons across the democratic world. In a similar way, attention is captured by the violation of rights of asylum-seekers, rather than by the over-representation of immigrants in the most informal and vulnerable sectors of the contemporary economy.99 For detention decisions taken at Guantánamo Bay to correspond to Schmitt’s understanding of the exception, however, ‘[t]he precondition as well as the content of jurisdictional competence in such a case must necessarily be unlimited’. ‘From the liberal constitutional point if view’, Schmitt wrote, ‘there would be no jurisdictional competence at all. The most guidance the constitution can provide is to indicate who can act in such a case.’100 Yet in respect of Guantánamo Bay, both the content and competence of the US executive is repeatedly cast as pre-codified in presidential and governmental statements. At times, the ‘code’ is said to be that of ‘freedom’, ‘democracy’ or ‘justice’.101 At other times, it is that of God.102 On still further occasions, constitutional norms are invoked to frame a decision.103 The acts of the would-be sovereign, in each case, are characterized by repeated references to some higher source of competence and direction, overt deference to a pre-determined programme in the course of implementation, and insistence upon the conduit or vessel-like status of executive authority. A little lower down the hierarchy, Secretary of the Navy Gordon England, speaking about the annual administrative review process at a press briefing on 23 June 2004, conceded: ‘[T]here’s no question there’s judgment involved. I doubt if many of these are black and white cases. I would expect most are going to be gray’. When pressed to define his role in the process, he confirmed that he was the one to make the final decision regarding release, transfer or continued detention in respect of each detainee, in the wake of an Administrative Review Board assessment. ‘I operate and oversee, organise the process, and I also make the ultimate decision’, he stated.104 Secretary England went on, however, to convey an impression of this judgment as one cabined by broad policy directives, notions of reasonableness, and the institutional demand for standardization: ‘[W]e do have some guidelines; . . . the boards do have some guidelines’, he assured the audience, ‘[e]very board doesn’t have a different standard’. He continued: ‘[I]t will be a judgment based on facts, data available . . . the best decision a reasonable person can make in this situation’. ‘[I]t’s what is the situation today and going forward in terms of a threat to America. And that is what we will decide, and that’s what the decision will be based on’.105 From expressing the decision he would be taking in personal, case-specific terms, Secretary England thus moved rapidly into the mode of generalization, depersonalization and necessity. ‘His’ decision became ‘the’ decision of the reasonable person, made not to assess the individual detainee’s responsibility, but rather to assess his or her proximity to a generalized ‘threat to America’. Such an approach is also discernible in the Military Order issued by President Bush in 2001, pursuant to which the Military Commissions were convened before which Guantánamo Bay detainees were, until their suspension in November 2004, in the process of being tried. The ‘findings’ upon which the jurisdiction created by that order is predicated cast the steps taken thereby as inexorable reactions to a state of affairs of immeasurable proportions and persistent duration. Attacks by international terrorists are said to have ‘created a state of armed conflict that requires the use of the United States Armed Forces’.106 Likewise, it is said to be ‘necessary for individuals subject to [the] order . . . to be detained’, just as the issuance of the order itself is stated to be ‘necessary to meet the emergency’.107 Although expressed in terms of ‘an extraordinary emergency’, this order frames the Presidential decisions embodied in its text as matters of exigency – in other words, as non-decisions – dictated by a ‘state of armed conflict’. The only acknowledgement of discretion is buried in the final paragraph of the order’s ‘findings’, where the President is said to have ‘determined that an extraordinary emergency exists for national defense purposes’. The exercise of sovereign discretion is, accordingly, cast as a derivative matter: a question of classification after the fact. One could, of course, read these claims as exercises in public relations, designed to cloak the deployment of unfettered sovereign power in the guise of liberal proceduralism. Yet regardless of how one might characterize the ‘real’ intent behind the military mandates governing Guantánamo Bay, the experience of decision-making reported by figures such as Secretary England seems, to a significant degree, to be one of deferral and disavowal – as though his job were more a matter of implementation than decision. Speaking of the determination, by the Combatant Status Review Tribunal, that one of the first 30 detainees to be heard by the Tribunal was not, in fact, an ‘enemy combatant’, Secretary England explained: ‘[I]n this case we – we set up a process, we’re following that process, we’re looking at all the data . . . Determinations were made he was an enemy combatant. We now have set up another process; more data is available. Time has gone by. . . I believe the process is doing what we asked the process to do, which is to look at the data as unbiased as you can, from a reasonable person point of view. . . and I believe the process is working . . . ’108¶ This is not the language of Schmittian exceptionalism. Rather, it is suggestive of efforts to construct a series of normatively airtight spaces in which the prospect of agonizing over an impossible decision may be delimited and, wherever possible, avoided. As such, the jurisdiction created at Guantánamo Bay is constituted, in Schmittian terms, in the liberal register of the norm (indeed, an overdetermined version thereof).109 This brings me to my final point, which is to sketch a reading of Schmitt whereby the experience of exceptional decisionism that his work evokes may be de-linked from the notion of self-founding, all-encompassing sovereignty and, as such, deployed against the centralization of political authority. I wish to suggest, moreover, that the political possibilities attendant upon such a de-frocked, wayward sense of the exceptional are ripe for reinvigoration in resistance to the initiatives being undertaken at Guantánamo Bay. The legally sanctioned, indefinite detention of persons at Guantánamo Bay might be countered not through a return to the normative, but through an insistence upon the prevalence of the exception in these terms.

#### BUTLER’S ETHICS AREN’T REVOLUTIONARY, THEY’RE APOLOGIST AND NARCISSISTIC—WE NEED A TRULY RADICAL POLITICS

Jodi **Dean**, Professor, Political Theory, Hobart & William Smith Colleges, “Beginning Again,” May 15, 20**06**. Available from the World Wide Web at: <http://jdeanicite.typepad.com/i_cite/2006/05/beginning_again.html>, accessed 9/30/06.

Today's dilemma: Butler's ethics. What sort of ethics stems from vulnerability? How is the awareness of the vulnerability of ourselves and others an ethical source or inspiration, particularly when, as Butler notes, what is recognizable as vulnerability is already given to us in the form of norms that we may well contest. I find myself thinking of the pathetically vulnerable and narcissistic subjects that Zizek describes, these late capitalist subjects so vulnerable, so unprotected, so at risk before the enjoyment of the other and the unceasing demands of the superego. Such vulnerabilities hardly seem an auspicious site for ethics or the ethics they incite, an ethics of the acknowledgement of vulnerability, seems a more horrific version of regulation and delicacy, of tiptoeing and whispering and being careful not to offend, such that they feed and support the very dimension of the superego that Butler rightly wants to diminish. But even this dilemma isn't the one that really paralyzes me. What really bothers me is the turn to ethics when what is needed is politics. I can imagine Machiavelli (and Nietzsche and, why not, Hannibal Lecter) grinning at a politics of vulnerability: "oh yes, please, be my guest, you who are at risk, you who are uncertain, join me as I dine."

**Preventing extinction is the highest ethical priority – we should take action to prevent the Other from dying FIRST, only THEN can we consider questions of value to life**

Paul **Wapner**, associate professor and director of the Global Environmental Policy Program at American University, Winter **2003**, Dissent, online: http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm

All attempts to listen to nature are social constructions-except one**. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existenc**e. As I have said, postmodernists accept that **there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character**. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But **we need not doubt the simple idea that a prerequisite of expression is existence. This in turn suggests that preserving the nonhuman world**-in all its diverse embodiments-**must be seen by eco-critics as a fundamental good. Eco-critics must be supporters,** in some fashion, **of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity**. In fact, **if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative** and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless**, I can't see how postmodern critics can do otherwise than accept the value of preserving the** nonhuman **world**. The nonhuman **is the extreme "other"; it stands in contradistinction to humans** as a species**. In understanding the constructed quality of human experience and** the dangers of reification, postmodernism inherently advances an ethic of **respecting the "other.**" At the very least, respect **must involve ensuring that the "other"** actually **continues to exist.** In our day and age, **this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth'**s diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

#### Consequentialism is key to ethical decision making, because it ensures beings are treated as equal—any other approach to ethics is arbitrary because it considers one’s preferences as more important than others

Lillehammer, 2011

[Hallvard, Faculty of Philosophy Cambridge University, “Consequentialism and global ethics.” Forthcoming in M. Boylan, Ed., Global Morality and Justice: A Reader, Westview Press, Online, <http://www.phil.cam.ac.uk/teaching_staff/lillehammer/Consequentialism_and_Global_Ethics-1-2.pdf>] /Wyo-MB

Contemporary discussions of consequentialism and global ethics have been marked by a focus on examples such as that of the shallow pond. In this literature, distinctions are drawn and analogies made between different cases about which both the consequentialist and his or her interlocutor are assumed to have a more or less firm view. One assumption in this literature is that progress can be made by making judgements about simple actual or counterfactual examples, and then employing a principle of equity to the effect that like cases be treated alike, in order to work out what to think about more complex actual cases. It is only fair to say that in practice such attempts to rely only on judgements about simple cases have a tendency to produce trenchant stand-offs. It is important to remember, therefore, that for some consequentialists the appeal to simple cases is neither the only, nor the most basic, ground for their criticism of the ethical status quo. For some of the historically most prominent consequentialists the evidential status of judgements about simple cases depends on their derivability from basic ethical principles (plus knowledge of the relevant facts). Thus, in The Methods of Ethics, Henry Sidgwick argues that ethical thought is grounded in a small number of self-evident axioms of practical reason. The first of these is that we ought to promote our own good. The second is that the good of any one individual is objectively of no more importance than the good of any other (or, in Sidgwick’s notorious metaphor, no individual’s good is more important ‘from the point of view of the Universe’ than that of any other). The third is that we ought to treat like cases alike. Taken together, Sidgwick takes these axioms to imply a form of consequentialism. We ought to promote our own good. Yet since our own good is objectively no more important than the good of anyone else, we ought to promote the good of others as well. And in order to treat like cases alike, we have to weigh our own good against the good of others impartially, all other things being equal. iv It follows that the rightness of our actions is fixed by what is best for the entire universe of ethically relevant beings. To claim otherwise is to claim for oneself and one’s preferences a special status they do not possess. When understood along these lines, consequentialism is by definition a global ethics: the good of everyone should count for everyone, no matter their identity, location, or personal and social attachments, now or hereafter. v Some version of this view is also accepted by a number of contemporary consequentialists, including Peter Singer, who writes that it is ‘preferable to proceed as Sidgwick did: search for undeniable fundamental axioms, [and] build up a moral theory from them’ (Singer 1974, 517; Singer 1981). For these philosophers the question of our ethical duties to others is not only a matter of our responses to cases like the shallow pond. It is also a matter of whether these responses cohere with an ethics based on first principles. If you are to reject the consequentialist challenge, therefore, you will have to show what is wrong with those principles.

**Failure to calculate is worse—leads to inaction that causes totalitarianism**

**Campbell ‘98**

[David, Int’l Relations Prof @ UM, National Deconstruction: Violence, Identity, and Justice in Bosnia, Minneapolis: University of Minnesota Press, 1998, 186]

The undecidable within the decision does not, however, prevent the decision nor avoid its urgency. As Derrida observes, “a just decision is always required immediately, ‘right away.’” This necessary haste has unavoidable consequences because **the pursuit of “infinite information and the unlimited knowledge of conditions**, rules or hypothetical imperatives that could justify it” **are unavailable in the crush of time**. Nor can the crush of time be avoided, even by unlimited time, “because the moment of decision as such always remains a finite moment of urgency and precipitation.” The decision is always “structurally finite,” it a”always marks the interruption of the juridico- or ethico- or politico-cognitive deliberation that precedes it, that must precede it.” That is why, invoking Kierkegaard, Derrida, declares that “the instant of decision is a madness.” The finite nature of the decision may be a “madness” in the way it renders possible the impossible, the infinite character of justice, but Derrida argues for the necessity of this madness. Most importantly, Derrida argues for the necessity of this madness. Most importantly, although Derrida’s argument concerning the decision has, to this pint, been concerned with an account of the procedure by which a decision is possible, it is with respect to the ncessity of the decision that Derrida begins to formulate an account of the decision that bears upon the content of the decision. In so doing, Derrida’s argument addresses more directly – more directly, I would argue than is acknowledged by Critchley – the concern that for politics (at least for a progressive politics) one must provide an account of the decision to combat domination. That **undecidability** resides within the decision, Derrida argues, “that justice exceeds law and calculation, that the unpresentable exceeds the determinalbe cannot and **should not serve as alibi for staying out of juridico-political battles, within an institution or a state**, or between institutions or states and others.” Indeed, “**incalculable justice requires us to calculate**.” From where do these insistences come? What is behind, what is animating, these imperatives? It is both the character of infinite justice as a heteronomic relationship to the other, a relationship that because of its undecidability multiplies responsibility, and the fact that “**left to itself, the incalculable** and given (donatrice) idea of justice is always very close to the bad, even to the worst, for **it can always be reappropriated by the most perverse calculation.**” The necessity of calculating the incalculable thus responds to a duty a duty that inhabits the instant of madness and compels the decision to avoid “the bad,” the “perverse calculation,” even the worst.” This is **the** duty that also dwells with deconstructive thought **and makes it the starting point, the “at least necessary condition,” for the organization of resistance to totalitarianism** in all its forms. And it is a duty that responds to practical political concerns when we recognize that Derrida names the bad, the perverse, and the worst as those violences “we recognize all too well without yet having thought them through, the crimes of xenophobia, racism, anti-Semitism, religious or nationalist fanaticism.”

#### There is always value to life, it is subjective—can’t determine for others

Schwartz 2004

[“A Value to Life: Who Decides and How?” www.fleshandbones.com/readingroom/pdf/399.pdf]

Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgement, and value judgements are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality. Nevertheless, quality is still an essential criterion in making such decisions because it gives legitimacy to the possibility that rational, autonomous persons can decide for themselves that their own lives either are worth, or are no longer worth, living. To disregard this possibility would be to imply that no individuals can legitimately make such value judgements about their own lives and, if nothing else, that would be counterintuitive. 2 In our case, Katherine Lewis had spent 10 months considering her decision before concluding that her life was no longer of a tolerable quality. She put a great deal of effort into the decision and she was competent when she made it. Who would be better placed to make this judgement for her than Katherine herself? And yet, a doctor faced with her request would most likely be uncertain about whether Katherine’s choice is truly in her best interest, and feel trepidation about assisting her. We need to know which considerations can be used to protect the patient’s interests. The quality of life criterion asserts that there is a difference between the type of life and the fact of life. This is the primary difference between it and the sanctity criterion discussed on page 115. Among quality of life considerations rest three assertions: 1. there is relative value to life 2. the value of a life is determined subjectively 3. not all lives are of equal value. Relative value The first assertion, that life is of relative value, could be taken in two ways. In one sense, it could mean that the value of a given life can be placed on a scale and measured against other lives. The scale could be a social scale, for example, where the contributions or potential for contribution of individuals are measured against those of fellow citizens. Critics of quality of life criteria frequently name this as a potential slippery slope where lives would be deemed worthy of saving, or even not saving, based on the relative social value of the individual concerned. So, for example, a mother of four children who is a practising doctor could be regarded of greater value to the community than an unmarried accountant. The concern is that the potential for discrimination is too high. Because of the possibility of prejudice and injustice, supporters of the quality of life criterion reject this interpersonal construction in favour of a second, more personalized, option. According to this interpretation, the notion of relative value is relevant not between individuals but within the context of one person’s life and is measured against that person’s needs and aspirations. So Katherine would base her decision on a comparison between her life before and after her illness. The value placed on the quality of a life would be determined by the individual depending on whether he or she believes the current state to be relatively preferable to previous or future states and whether he or she can foresee controlling the circumstances that make it that way. Thus, the life of an athlete who aspires to participate in the Olympics can be changed in relative value by an accident that leaves that person a quadriplegic. The athlete might decide that the relative value of her life is diminished after the accident, because she perceives her desires and aspirations to be reduced or beyond her capacity to control. However, if she receives treatment and counselling her aspirations could change and, with the adjustment, she could learn to value her life as a quadriplegic as much or more than her previous life. This illustrates how it is possible for a person to adjust the values by which they appraise their lives. For Katherine Lewis, the decision went the opposite way and she decided that a life of incapacity and constant pain was of relatively low value to her. It is not surprising that the most vociferous protesters against permitting people in Katherine’s position to be assisted in terminating their lives are people who themselves are disabled. Organizations run by, and that represent, persons with disabilities make two assertions in this light. First, they claim that accepting that Katherine Lewis has a right to die based on her determination that her life is of relatively little value is demeaning to all disabled people, and implies that any life with a severe disability is not worth Write a list of three things that make living. Their second assertion is that with proper help, over time Katherine would be able to transform her personal outlook and find satisfaction in her life that would increase its relative value for her. The first assertion can be addressed by clarifying that the case of Katherine Lewis must not be taken as a general rule. Deontologists, who are interested in knowing general principles and duties that can be applied across all cases would not be very satisfied with this; they would prefer to be able to look to duties that would apply in all cases. Here, a case-based, context-sensitive approach is better suited. Contextualizing would permit freedom to act within a particular context, without the implication that the decision must hold in general. So, in this case, Katherine might decide that her life is relatively valueless. In another case, for example that of actor Christopher Reeve, the decision to seek other ways of valuing this major life change led to him perceiving his life as highly valuable, even if different in value from before the accident that made him a paraplegic. This invokes the second assertion, that Katherine could change her view over time. Although we recognize this is possible in some cases, it is not clear how it applies to Katherine. Here we have a case in which a rational and competent person has had time to consider her options and has chosen to end her life of suffering beyond what she believes she can endure. Ten months is a long time and it will have given her plenty of opportunity to consult with family and professionals about the possibilities open to her in the future. Given all this, it is reasonable to assume that Katherine has made a well-reasoned decision. It might not be a decision that everyone can agree with but if her reasoning process can be called into question then at what point can we say that a decision is sound? She meets all the criteria for competence and she is aware of the consequences of her decision. It would be very difficult to determine what arguments could truly justify interfering with her choice. The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

#### Refusal to defend the consequences of the plan replicates a totalitarian disregard for life – they sacrifice political responsibility on the altar of morality, which turns the case.

Jeffrey C. Isaac, James H. Rudy Professor of Political Science and Director of the Center for the Study of Democracy and Public Life at Indiana University, Summer 2002, Social Research, “Hannah Arendt on human rights and the limits of exposure, or why Noam Chomsky is wrong about the meaning of Kosovo”

What does Arendt mean here? She does not attribute primary responsibility, either causal or moral, for the rise of totalitarianism to these intellectuals, who were basically without power. But she does imply that they were guilty of a serious intellectual and indeed ethical failure, connected to the fact that while brilliant they were also cynical. Disgusted with bourgeois hypocrisy and its double standards, they abandoned standards altogether. Revolted by the impoverishment of social relationships, they abandoned all sense of genuine solidarity with fellow citizens or human beings. It was not simply that they lacked any clear sense of the actual consequences of their rage against liberalism. They also failed to offer, or to stand by, any moral values. They were enemies of hypocrisy rather than partisans of liberty. They lacked any "sense of reality"--any sense of their responsibility for the common world inhabited by men and women, and any sense of the role of their own ideas as potential sources of human good or evil. The theme of the conjunction of intellect and evil recurs again in the concluding sections of Origins, this time in connection not with the irresponsibility of intellectuals as such, but with the relentless logic of totalitarian ideologies. There is, she argues, not simply a dogmatism but a cruelty inherent in the totalistic explanations furnished by such ideologies. Such cruelty derives from the complete independence of totalitarian ideologies from "all experience." Totalitarian thinking reduces all that is unique, novel, or contingent to the simple terms of its own purported truth. All experience becomes reducible to the terms of that truth, and is forced, not simply politically but also intellectually, to conform to these terms. This accounts for what Arendt considers the most terrifying feature of totalitarian thought, its "stringent logicality." Ideological thinking, she argues, "orders facts into an absolutely logical procedure which starts from an axiomatically accepted premise, deducing everything else from it; that is, it proceeds with a consistency that exists nowhere in the realm of reality" (Arendt, 1973: 471). The ideologue, Arendt maintains, demands a consistency that is inconsistent with "the realm of reality." She does not deny that logic is a method of ordering concepts, or that consistency may be an intellectual virtue. But she maintains that such consistency is not and cannot be a defining quality of the world. The world is too complex, too pluralistic, to admit such consistency. It consists of the disparate experiences, beliefs, and convictions of diverse individuals and groups. And it consists of complex situations that admit of difficult and often tragic choices. The demand for consistency in such a world is too monistic. It is an intellectual conceit--and a conceit specific to intellectuals--to imagine that inconsistency or contradiction is the world's most profound problem, and that the resolution of such inconsistency by logical methods is the most important intellectual-cum-political task. For the elimination of inconsistency may well threaten the elimination of situational ambiguities and differences of opinion that are endemic to the human condition. And, more to the point, the world's most profound problem is not inconsistency or ambiguity or even hypocrisy. It is the infliction of harm and suffering on humans by other humans, and the consequent denial of elemental human dignity to the vulnerable and dispossessed. It is, in short, the denial of freedom to human beings. The "stringent logicality" of ideological thinking not only fails to make this suffering a primary concern; it actually exacerbates this suffering, through its own cruel lack of political responsibility, and through its tendency to gravitate toward cruel and unsavory causes that seem noble because of their relentless ideological consistency (see Shklar, 1984). I want to be clear about this. Arendt is talking about totalitarian ideologies, principally Nazism and Stalinism. She is not arguing that all of those who turn "logicality" into a supreme virtue are quasi totalitarians. But in criticizing totalitarian modes of thinking, she also makes a more general point: that "strict logicality," whatever its intellectual merits, can be hostile to other and more important human values. Intellectuals, she believes, are peculiarly liable to ignore this, for they often inhabit an imaginary world of pure ideality, in which ideas, especially their own ideas, predominate. This is the peculiar unworldliness of the intellectual. It is the source of much brilliance. But if intellectuals want to be social critics then they must become worldly, They must appreciate the irreducible complexity and plurality of the world (see Arendt, 1971: 50-54).

**Government action shouldn’t be subject to the same ethical rules that apply to individuals because of the duty to provide for an entire society. The most ethical mode of policymaking is one that recognizes necessary sacrifices for the common good.**

Tim **Stelzig**, Attorney Advisor in the Competition Policy Division of the FCC's Wireline Competition Bureau, former associate with Arnold & Porter in Washington, D.C., JD from the University of Pennsylvania Law School, March **1998**, University of Pennsylvania Law Review, 146 U. Pa. L. Rev. 901, p. 957-958

**Minimizing governmental harm** is no simple matter. It **involves complex calculations and the interweaving of policies** of inaction with policies of civil, criminal, and regulatory action**. However one thinks these processes ideally should work** in detail, this conclusion comports well with broadly liberal [268](http://web.lexis-nexis.com/universe/document?_m=668ab52fcf195df459761ba6412684ee&_docnum=1&wchp=dGLbVlb-zSkVA&_md5=8f7d87cdf8313249d86c8d417ee6dcb6" \l "n268" \t "_self) notions of proper governmental action. The distributive exemption claims that **the desirable role for government is to attempt to provide for the general welfare as consequentially calculated, while taking into account the cost of governmental intervention. Deontological principles of good standing have** [\*958]  thus **explained why the state is permitted to do that which would be deontologically impermissible for individuals to do**. In short**, an exception to deontology has swallowed up the rule with respect to state action.**

# 2nC

#### Rhetoric describes and reflects reality, it does not shape it—objective reality exists outside of language

Fram-Cohen ‘85

[Michelle, “Reality, Language, Translation: What Makes Translation Possible?” American Translators Association Conference, enlightenment.supersaturated.com/essays/text/michelleframcohen//possibilityoftranslation.html, 9-24-06//uwyo-ajl]

Nida did not provide the philosophical basis of the view that the external world is the common source of all languages. Such a basis can be found in the philosophy of Objectivism, originated by Ayn Rand. Objectivism, as its name implies, upholds the objectivity of reality. This means that reality is independent of consciousness, consciousness being the means of perceiving ?reality, not of creating it. Rand defines language as "a code of visual-auditory symbols that denote concepts." (15) These symbols are the written or spoken words of any language. Concepts are defined as the "mental integration of two or more units possessing the same distinguishing characteristic(s), with their particular measurements omitted." (16) This means that concepts are abstractions of units perceived in reality. Since words denote concepts, words are the symbols of such abstractions; words are the means of representing concepts in a language. Since reality provides the data from which we abstract and form concepts, reality is the source of all words--and of all languages. The very existence of translation demonstrates this fact. If there was no objective reality, there could be no similar concepts expressed in different verbal symbols. There could be no similarity between the content of different languages, and so, no translation. Translation is the transfer of conceptual knowledge from one language into another. It is the transfer of one set of symbols denoting concepts into another set of symbols denoting the same concepts. This process is possible because concepts have specific referents in reality. Even if a certain word and the concept it designates exist in one language but not in another, the referent this word and concept stand for nevertheless exists in reality, and can be referred to in translation by a descriptive phrase or neologism. Language is a means describing reality, and as such can and should expand to include newly discovered or innovated objects in reality. The revival of the ancient Hebrew language in the late 19th Century demonstrated the dependence of language on outward reality. Those who wanted to use Hebrew had to innovate an enormous number of words in order to describe the new objects that did not confront the ancient Hebrew speakers. On the other hand, those objects that existed 2000 years ago could be referred to by the same words. Ancient Hebrew could not by itself provide a sufficient image of modern reality for modern users.

#### Policy analysis should precede discourse – most effective way to challenge power

Jill Taft-Kaufman, Speech prof @ CMU, 1995, Southern Comm. Journal, Spring, v. 60, Iss. 3, “Other Ways”, p pq

The postmodern passwords of "polyvocality," "Otherness," and "difference," unsupported by substantial analysis of the concrete contexts of subjects, creates a solipsistic quagmire. The political sympathies of the new cultural critics, with their ostensible concern for the lack of power experienced by marginalized people, aligns them with the political left. Yet, despite their adversarial posture and talk of opposition, their discourses on intertextuality and inter-referentiality isolate them from and ignore the conditions that have produced leftist politics--conflict, racism, poverty, and injustice. In short, as Clarke (1991) asserts, postmodern emphasis on new subjects conceals the old subjects, those who have limited access to good jobs, food, housing, health care, and transportation, as well as to the media that depict them. Merod (1987) decries this situation as one which leaves no vision, will, or commitment to activism. He notes that academic lip service to the oppositional is underscored by the absence of focused collective or politically active intellectual communities. Provoked by the academic manifestations of this problem Di Leonardo (1990) echoes Merod and laments: Has there ever been a historical era characterized by as little radical analysis or activism and as much radical-chic writing as ours? Maundering on about Otherness: phallocentrism or Eurocentric tropes has become a lazy academic substitute for actual engagement with the detailed histories and contemporary realities of Western racial minorities, white women, or any Third World population. (p. 530) Clarke's assessment of the postmodern elevation of language to the "sine qua non" of critical discussion is an even stronger indictment against the trend. Clarke examines Lyotard's (1984) The Postmodern Condition in which Lyotard maintains that virtually all social relations are linguistic, and, therefore, it is through the coercion that threatens speech that we enter the "realm of terror" and society falls apart. To this assertion, Clarke replies: I can think of few more striking indicators of the political and intellectual impoverishment of a view of society that can only recognize the discursive. If the worst terror we can envisage is the threat not to be allowed to speak, we are appallingly ignorant of terror in its elaborate contemporary forms. It may be the intellectual's conception of terror (what else do we do but speak?), but its projection onto the rest of the world would be calamitous....(pp. 2-27) The realm of the discursive is derived from the requisites for human life, which are in the physical world, rather than in a world of ideas or symbols.(4) Nutrition, shelter, and protection are basic human needs that require collective activity for their fulfillment. Postmodern emphasis on the discursive without an accompanying analysis of how the discursive emerges from material circumstances hides the complex task of envisioning and working towards concrete social goals (Merod, 1987). Although the material conditions that create the situation of marginality escape the purview of the postmodernist, the situation and its consequences are not overlooked by scholars from marginalized groups. Robinson (1990) for example, argues that "the justice that working people deserve is economic, not just textual" (p. 571). Lopez (1992) states that "the starting point for organizing the program content of education or political action must be the present existential, concrete situation" (p. 299). West (1988) asserts that borrowing French post-structuralist discourses about "Otherness" blinds us to realities of American difference going on in front of us (p. 170). Unlike postmodern "textual radicals" who Rabinow (1986) acknowledges are "fuzzy about power and the realities of socioeconomic constraints" (p. 255), most writers from marginalized groups are clear about how discourse interweaves with the concrete circumstances that create lived experience. People whose lives form the material for postmodern counter-hegemonic discourse do not share the optimism over the new recognition of their discursive subjectivities, because such an acknowledgment does not address sufficiently their collective historical and current struggles against racism, sexism, homophobia, and economic injustice. They do not appreciate being told they are living in a world in which there are no more real subjects. Ideas have consequences. Emphasizing the discursive self when a person is hungry and homeless represents both a cultural and humane failure. The need to look beyond texts to the perception and attainment of concrete social goals keeps writers from marginalized groups ever-mindful of the specifics of how power works through political agendas, institutions, agencies, and the budgets that fuel them.

#### First, CP is executive action—obviously avoids Congressional fights

Fine 12

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We also should expect presidents to prioritize and be strategic in the types of executive orders that they create to maneuver around a hostile Congress. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. By doing so, presidents are able to pressure Congress to respond, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. While it is possible that such unilateral actions might spur Congress to pass a law to modify or reverse a president’s order, such responses by Congress are rare (Howell 2003, 113-117; Warber 2006, 119). Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcome without having to spend time lining up votes or forming coalitions with legislators. As a result, and since reversal from Congress is unlikely, presidents have a greater incentive to issue major policy orders to overcome legislative hurdles.

#### Second, unilateral executive action shifts incentives for opposition to sway to the President’s will—diffuses tensions in congress, avoiding a fight and lowering PC cost.

Bernstein 2013

[Jonathan Bernstein is a political scientist who writes about American politics, especially the presidency, Congress, parties and elections., January 17th, 2013, In the Three Branches, Sharing is Caring, http://prospect.org/article/three-branches-sharing-caring, uwyo//amp]

Given all that, both sides really can have incentives to cut a deal in many cases. It takes a president who is willing to use all the tools of his office…but also one who is good at negotiating. It also, and this might be the biggest problem for Obama, requires an opposition which is willing to cut a deal for incremental gains, even if it allows the president to walk away a winner (albeit less of an immediate policy winner than he might have been acting alone). It’s not clear that House Republicans are willing to do that. Congressional Republicans might not look right now as if they could be real bargaining partners, but we don’t really know how it will play out. Presidents can never force Congress to act – they can’t even always force the bureaucracy to act. And there’s little that they can do to affect public opinion; in this case, it’s especially unlikely that Barack Obama can affect the views of those constituents House Republicans are most responsive to. What presidents can do is to act where they have the authority to do so, and there’s plenty that entails in gun safety, for climate, for immigration, and on many other issues. And by threatening to act, they can at least try to change the incentives for opposition Members of Congress, pushing them to see that legislative gridlock might not be their best option. Obama hasn’t done nearly as much as he could do so far, but perhaps his efforts on gun violence are a sign of things to come in his second term. If so, it might be a lot more productive than a lot of people expect. All in all, however, whether it’s gun violence, immigration, or even health care, the combination of executive orders and negotiation with Congress can be a potent tool for any president. Barack Obama hasn’t used it much, yet; he didn’t need it too often in his first two years, and he didn’t turn to it much once Republicans took the House. But I suspect it’s going to be a major weapon for him during his second term. At least, it certainly should be.

#### Third, congress will fall in line behind the president’s unilateral action for fear of appearing soft, unsupportive, and unpatriotic—they only have luxury of defecting on their home turf.

Noone 2012

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Political Science and Law.,The War Powers Resolution and

Public Opinion, CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW·VOL. 45·2012, uwyo//amp]

In June 2011, a poll taken to assess the public’s confidence in institutions the U.S. military received the highest rating at 78% (11% above its historic average of 67%).21 The presidency received a confidence rating of 35% (10% below its historic average), and Congress received a confidence rating of 12% (14% below its historic average).22 This poll has been conducted thirty-five times since 1973 and indicates that the military has been number one since 1989 (with the exception of 1997 when small business was added to the survey). An analysis of this annual survey indicates that the public’s confidence level in the military is higher when it is engaged in military operations. In fact, the public overwhelmingly supports the military especially during conflict. Given Congress’ low ratings it is clear why members of Congress do not want to appear to be anything other than supportive of the military. “Opposing the use of force is no less risky domestically than it was before the [WPR’s] passage.”23 There are “electoral disincentives for confronting the president over foreign policy.”24 There is a particular price to pay if members of congress attempt to constrain the executive by cutting off funding. Allegations of being unpatriotic or abandoning U.S. forces in the field will hurt re-election bids.25 congressional votes for funding the use of force are usually overwhelming and decisive.

#### Fourth, Iraq proves.

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. 210, 2010// wyo-sc]

The 110th Congress's funding of the Iraq war follows our argument in that members of Congress preferred to avoid the political blame that would have resulted from voting against funding and not supporting the troops. In return, the president received all the spending he asked for while members of Congress were able to take home to their constituencies about nine thousand pet projects. We recognize that Iraq is only one case, but it is a central case, emphasized by Democratic candidates in the 2006 elections and one that Howell and Pevehouse seemed to expect to see the new Congress address. The pattern here would seem to support our view that Congress has ceded its authority to the executive. Individual members who might want to restrain the president have been unable to stem the tide of defections transferring authority to the White House.

**[A.] Interpretation: Statutory and/or judicial restrictions on presidential War Powers authority requires an external agent to place limit on the executive branch.**

**1. Statutory restriction are limits placed on authorized activities by the legislature**

**Black’s Law**

[“statutory restriction”, <http://thelawdictionary.org/statutory-restriction/>, accessed 6-2-13, AFB]

Limits or controls that have been place on activities by its ruling legislation.

**[B.] Violation – the affirmative uses the executive branch to increase constraints on presidential war powers – executive branch actions are discretionary judgments that are within the boundaries of delegated authority. Restricting it requires action from another branch**

**Luna, 2k** (Erik, professor of law at the University of Utah, 85 Iowa L. Rev. 1107, May, lexis)

For present purposes, a modest definition will suffice--discretion is the power to choose between two or more courses of conduct. **An official**, therefore, **has discretion when the boundaries of** his **authority leave** him with **the freedom to choose how to act--or not to act.** n88 This discretionary power is a "residual" n89 concept, the latitude remaining after the authority and decisions of other actors have been tallied. Dworkin employed a colorful simile for discretion to capture its relative, contextual nature: "Discretion, like the hole of a doughnut, does not exist except as an area left open by a surrounding belt of restriction." n90 Using this pastry-based metaphor, imagine a box containing a single doughnut. If the box's total area represents all potential courses of conduct for a particular actor, and the doughnut symbolizes the restrictions on the actor's discretion, the region within the doughnut--the doughnut hole--delineates the totality of his discretionary power. Outside of this area, the actor has no freedom of choice; he must either act in a prescribed manner or not act at all. In other words, the actor is without discretion. Greater specificity is possible by delineating discretion within American constitutionalism. Discretion inheres in each of the three branches of government--the legislative, the executive, and the judicial. n91 The term "ex  [\*1134]  ecutive discretion," therefore, refers to the authority of executive officers to choose how to act or not to act. A variety of officials enforce federal or state laws and are appropriately deemed **executive officers**--the President, the Secretary of Defense, a state governor, a city mayor, the local dog catcher, and so on. Each of these officials **exercise**s **a degree of executive discretion to choose a particular course of conduct without violating the dictates of the other branches**. For example, a state legislature might mandate that restaurants cook food in a "safe environment"; a state court might then interpret "safe" as referring to bacterial and viral hazards to the customers rather than the risks of the work environment to the employees. But **once the legislative branch has enacted the law and the judiciary has interpreted the law** (or squared it with the relevant constitutional provisions), **the executive official generally has the discretion to enforce the law as seen fit**. The relevant executive officer might, for instance, establish a grading system or minimum standards for the sanitary condition of restaurants. It is this residual power, the freedom to choose a particular course of conduct after the other branches have exercised their authority, that can be referred to as executive discretion. B. Criminal Justice Discretion in the Abstract Discretion can be further specified by placing it within the context of penal law. American constitutionalism has adopted a number of strategies to strike a balance between individual liberty and societal order in the criminal justice system. n92 Most notably, the federal Constitution enumerates individual rights protected from "the vicissitudes of political controversy," n93 thereby removing certain subjects as fodder for order maintenance. But American constitutionalism also secures order and liberty through the structural design of government, dividing official power between the three coordinate branches. n94 Specifically, the legislature determines what acts are criminal and subject to coercive sanction. The judiciary interprets the criminal law where necessary, nullifies those penal statutes that are deemed inconsistent with relevant constitutional provisions, and precludes certain modes of enforcement of otherwise valid criminal laws. Finally, the executive enforces those criminal laws that have been duly enacted by the  [\*1135]  legislature and approved by the judiciary, pursuant to procedures prescribed by the legislature or (more likely) found by the courts to pass constitutional muster. A couple of caveats should be mentioned. Not all laws are backed by penal sanctions, and not all executive officials are empowered to enforce criminal law. In general, only two groups--police and prosecutors--have the authority to implement the relevant penal code. The term "police" refers to those actors officially licensed to uncover and investigate crime and arrest suspected offenders: FBI agents, city police officers, county sheriffs, and so on. Similarly, the term "prosecutors" refers to the officials authorized to bring criminal charges against an alleged offender and to represent the government in a subsequent criminal case against the accused: the U.S. Attorney General, a U.S. Attorney, a state attorney general, a county district attorney, and their subordinates. Moreover, the passage, judicial approval, and execution of a penal statute do not necessarily follow a linear progression in practice. A given criminal law might be enacted and administered, but its constitutionality might never be questioned in the courts. Or the statute might be judicially approved in an initial proceeding but subsequently unenforced by executive officials. In turn, the courts might strike down a criminal law prior to enforcement, or the statute might not be reviewed until some official attempts to apply its strictures to a particular individual. Moreover, the ostensibly clean division among the three branches is the subject of ongoing academic and professional debate, including the battle between "formalism" and "functionalism" in the separation of powers. n95 Finally, various checks and balances are intended to ensure an interrelationship and interdependency among the branches of government. For example, a proposed federal criminal statute only becomes law if the President signs the bill or if Congress overrides his veto by a two-thirds majority. With these admonitions, it can be said that the legislature enacts criminal laws, the judiciary reviews the constitutionality of the laws and relevant enforcement procedures, and the executive administers the laws consistent with the mandates of the other branches. n96 **An executive officer is without authority to suppress conduct that the legislature has not deemed criminal**. Likewise, the officer has no power to enforce penal statutes that have been judicially invalidated or to use enforcement techniques disapproved by the courts.  [\*1136]  Building upon Dworkin's doughnut metaphor, Figure 1 schematically depicts American criminal justice. n97 The total area of the figure represents all potential combinations of criminal law and enforcement procedures. The area within the exterior circle ("the legislative act") depicts all conduct that has been criminalized by the legislature and the methods of enforcement that have been expressly or implicitly approved by the legislature. n98 The first band within the circle (B) represents those laws that the judiciary deems substantively invalid and therefore unenforceable under any procedure. The second band (C) represents those criminal statutes that pass constitutional muster but are being administered in an unconstitutional fashion. Finally, the internal core (D) depicts **the combination of criminal laws and enforcement procedures that have been enacted by the legislature** and are deemed unobjectionable by the courts. This area **represents executive discretion in criminal justice--the freedom to enforce or not enforce particular criminal laws** pursuant to particular procedures **without interference from the other branches**.  [\*1137]  To test this structure, imagine a hypothetical law "making it a crime for any person to remove another person's gall bladder." n99 Prior to the statute's enactment, assume that it was perfectly legal to remove gall bladders for any reason; graphically, this conduct exists outside of the exterior circle (A) and therefore well beyond any type of executive discretion to administer coercive sanctions. Once duly enacted by the legislature, the courts might review the statute's content under the substantive constitutional provisions: First Amendment freedom of speech and conscience, Fifth Amendment substantive due process, Eighth Amendment prohibition of cruel and unusual punishment, Fourteenth Amendment equal protection, and so on. If the gall bladder statute was found to be constitutionally obnoxious as a matter of substance--lying in area B of the graph--the executive branch would be precluded from enforcing this statute under any policing methodology. Now assume that the courts determine that there is nothing objectionable about the law's content but find that the mode of enforcing its provisions violates the procedural aspects of the Constitution. For example, maybe the police burst into a doctor's office without a warrant or probable cause and discover her performing the prohibited operation; or maybe law enforcement agents beat the physician into confessing her crimes. This time the problem is not the substance of the statute but the executive officer's impermissible enforcement. The police conduct--represented in area C--is lawless and therefore, outside the area of executive discretion. Once again, in area A the executive has not been authorized to act by the legislature; in area B the judiciary has invalidated the relevant criminal  [\*1138]  statute as substantively unconstitutional; and in area C the courts have precluded a particular enforcement methodology of an otherwise valid law. What if the legislature enacts the gall bladder statute and the courts approve both the substantive content of the law and the subsequent method of enforcement? This combination of criminal law and police procedure lies in area D, the totality of executive discretion in criminal justice. In this area, executive officials exercise complete freedom in the administration of the criminal law. In the abstract, **the legislative and judicial branches might** make every **attempt to narrow the scope of unchecked executive discretion. For example, lawmakers might** enact only a few criminal statutes and **repeal** ineffective or counterproductive **laws, thereby limiting the grounds for** coercive **enforcement**. Statutory drafters might also be very specific in the coverage of a particular provision, making clear the situations in which the law applies. **In turn, the judicial branch might exercise substantial oversight in all facets of the criminal process, including decisions not to enforce the law**. Courts might strike down or narrowly interpret vague criminal statutes and refuse to allow the application of penal provisions suffering from desuetude. Judicial review might freely entertain claims of selective enforcement or prosecutorial overreaching in the plea bargaining process. Graphically, the circumference of legislatively proscribed conduct ("the legislative act") would be relatively constricted, the band of judicial review and invalidation (B and C) would be broad, and the residual area of executive discretion (D) would be quite small.

**[C.] Prefer our interpretation**

**1. Ground and limits – internal executive reforms and actions can take an incredibly wide array of mechanisms to act and crush the core negative ground which assesses the importance of external branch check on the executive – leaving executive counterplan ground and bypass arguments is key to level the playing field for the negative.**

**2. Education – the topic paper explicitly was written with a core controversy of separations of powers debates with war powers in mind – allowing the aff to fiat executive reform crowds out competitive strategies that test that core controversy.**

**[D.] To**

### AT: Rollback F/L

#### President can show credibility by self-binding, and it puts heavy costs on future presidents for not representing public interests

Posner and Vermeule 2010 **[Eric A. ,** Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; **Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 101-103//wyo-sc]**

Where the executive is indeed ill-motivated in any of these ways, constraining his discretion (more than the voters would otherwise choose) may be sensible. But the executive may not be ill-motivated at all. Where the executive would in fact be a faithful agent, using his increased discretion to promote the public good according to whatever conception of the public good voters hold, then constraints on executive discretion are all cost and no benefit. Voters, legislators, and judges know that different executive officials have different motivations. Not all presidents are power maximizers or empire-builders.20 Of course, the executive need not be pure of heart; his devotion to the public interest may in turn be based on concern for the judgment of history. But so long as that motivation makes him a faithful agent of the principal(s), he counts as well-motivated. The problem, however, is that the public has no simple way to know which type of executive it is dealing with. An ill-motivated executive will just mimic the statements of a well-motivated one, saying the right things and offering plausible rationales for policies that outsiders, lacking crucial information, find difficult to evaluate—policies that turn out not to be in the public interest. The ability of the ill-motivated executive to mimic the public-spirited executive's statements gives rise to the executive's dilemma of credibility: the well-motivated executive has no simple way to identify himself as such. Distrust causes voters (and the legislators they elect) to withhold discretion that they would like to grant and that the well-motivated executive would like to receive. Of course the ill-motivated executive might also want discretion; the problem is that voters who would want to give discretion (only) to the well-motivated executive may choose not to do so, because they are not sure what type he actually is. The risk that the public and legislators will fail to trust a well-motivated president is just as serious as the risk that they will trust an ill-motivated president, yet legal scholars have felled forests on the second topic while largely neglecting the first.21 Indeed, legal scholars assume (without evidence) that the executive's interests lead it to keep too many secrets, and thus endlessly debate how it should be compelled to disclose information that should be made public. It has not occurred to them that their premise might be wrong22—that excessive secrecy undermines the executive by ruining its credibility and thus does not serve its interest. Scholars of presidentialism have addressed credibility problems in general and anecdotal terms,23 but without providing social-scientific microfoundations for their analysis. Our basic claim is that the credibility dilemma is best explored from the perspective of executive signaling*.* Without any new constitutional amendments, statutes, or legislative action, law and executive practice already contain resources to allow a well-motivated executive to send a credible signal of his motivations, committing to use increased discretion in public spirited ways. By tying policies to institutional mechanisms that impose heavier costs on ill-motivated actors than on well-motivated ones, the well-motivated executive can credibly signal his good intentions and thus persuade voters that his policies are those that voters would want if fully informed. We focus particularly on mechanisms of executive self-binding that send a signal of credibility by committing presidents to actions or policies that only a well-motivated president would adopt

**CP constrains future Presidents – it creates a legal framework**

**Brecher**, JD University of Michigan, December **2012**

(Aaron, Cyberattacks and the Covert Action Statute, 111 Mich. L. Rev. 423, Lexis)

The executive might also issue the proposed order, even though it would limit her freedom in some ways, because of the possible benefits of **constraining future administrations** or preempting legislative intervention. n149 For example, in this context, an administration may choose to follow the finding and reporting requirements in order to convince Congress that legislative intervention is unnecessary for proper oversight. This is acceptable if the covert action regime is in fact adequate on its own. Moreover, if greater statutory control over cyberattacks is needed, the information shared with Congress may give Congress the tools and knowledge of the issue necessary to craft related legislation. n150 Additionally, while executive orders are hardly binding, **the inertia following adoption of an order may help constrain future administrations**, which may be more or less trustworthy than the current one. **Creating a presumption through an executive order** also **establishes a stable legal framework** for cyberattacks that allows law to follow policy in this new field, and permits decisionmakers to learn more about the nature of cyberoperations before passing detailed statutes that may result in unintended consequences.

**Epirics prove**

**Jensen**, JD Drake University, Summer **2012**

(Jase, FIRST AMERICANS AND THE FEDERAL GOVERNMENT, 17 Drake J. Agric. L. 473, Lexis)

At the historic 1994 meeting with the tribes, President Clinton signed a Presidential memorandum which provided executive departments and agencies with principles to guide interaction with and policy concerning Indian tribes. n83 President Clinton sought to ensure that the government recognizes that it operates on a government-to-government relationship with the federally recognized tribes. n84 Agencies were to consult with tribes prior to taking action which would affect them, consider tribal impact regarding current programs and policies, and remove barriers to communication. n85

Toward the end of Clinton's second term he issued an executive order which provided the executive branch with more detailed directions on how to implement the broader policy of government-to-government tribal consultation set forth in the 1994 memorandum. n86 **The order had a stronger binding effect on future administrations**. President Clinton signed Executive Order 13175 on November 6, 2000, and the order went into effect on January 5, 2001. n87 The order was binding upon all executive departments and executive agencies and all independent agencies were encouraged to comply with the order on a voluntary basis. n88 Each agency was required to designate an official which is to head the crea [\*486] tion of a tribal consultation plan, prepare progress reports, and ensure compliance with Executive Order 13175. n89

**And executive orders have the force of law:**

**Oxford** Dictionary of English **2010**

(Oxford Reference, Georgetown Library)

executive order

▶ noun US (Law) a rule or order issued by the President to an executive branch of the government and having the **force of law**.

**Executive orders are permanent**

**Duncan**, Associate Professor of Law at Florida A&M, Winter **2010**

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly **formal and permanent**. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. **Executive orders continue to influence subsequent presidents**. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. **Part of this formalization is** a consequence of **the reverence for precedent**. Thus, **prior presidents influence future presidents**, less because future presidents wish to mimic their predecessors, but more **because future presidents act within an edifice their predecessors have already erected**. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

**picality is a voting issue – rule of game, fairness, and education**

#### BIOPOWER DOESN’T CAUSE EXCEPTION OR VIOLENCE, BUT MAINTAINS LIFE

Ojakangas 05

[Mike, Helsinki Collegium for Advanced Studies, “Impossible Dialogues on Bio-Power: Agamben and Foucault,” Foucault Studies 2 (5-28), www.foucault-studies.com/no2/ojakangas1.pdf, acc. 9-24-06//uwyo-ajl]

In fact, the history of modern Western societies would be quite incomprehensible without taking into account that there exists a form of power which refrains from killing but which nevertheless is capable of directing people’s lives. The effectiveness of bio-power can be seen lying precisely in that it refrains and withdraws before every demand of killing, even though these demands would derive from the demand of justice. In biopolitical societies, according to Foucault, capital punishment could not be maintained except by invoking less the enormity of the crime itself than the monstrosity of the criminal: “One had the right to kill those who represented a kind of biological danger to others.” However, given that the “right to kill” is precisely a sovereign right, it can be argued that the bio-political societies analyzed by Foucault were not entirely bio-political. Perhaps, thereneither has been nor can be a society that is entirely bio-political. Nevertheless, the fact is that present-day European societies have abolished capital punishment. In them, there are no longer exceptions. It is the very “right to kill” that has been called into question. However, it is not called into question because of enlightened moral sentiments, but rather because of the deployment of bio-political thinking and practice. For all these reasons, Agamben’s thesis, according to which the concentration camp is the fundamental bio-political paradigm of the West, has to be corrected. The bio-political paradigm of the West is not the concentration camp, but, rather, the present-day welfare society and, instead of homo sacer, the paradigmatic figure of the bio-political society can be seen, for example, in the middle-class Swedish social-democrat. Although this figure is an object – and a product – of the huge bio-political machinery, it does not mean that he is permitted to kill without committing homicide. Actually, the fact that he eventually dies, seems to be his greatest “crime” against the machinery. (In bio-political societies, death is not only “something to be hidden away,” but, also, as Foucault stresses, the most “shameful thing of all”. ) Therefore, he is not exposed to an unconditional threat of death, but rather to an unconditional retreat of all dying. In fact, the bio-political machinery does not want to threaten him, but to encourage him, with all its material and spiritual capacities, to live healthily, to live long and to live happily – even when, in biological terms, he “should have been dead longago”. This is because biopower is not bloody power over bare life for its own sake but pure power over all life for the sake of the living. It is not power but the living, the condition of all life – individual as well as collective – that is the measure of the success of bio-power.

# 1nr

#### We control time frame and magnitude – deal failure draws in global powers and goes nuclear within months

PressTV 11/13

Global nuclear conflict between US, Russia, China likely if Iran talks fail, 11/13/13,<http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.¶ “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. ¶ “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. ¶ “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned.

#### draw in causes global nuclear conflict – draws in Russia and China AND leads to the detonation of CBW’s- T’s Specific Scenarios

Morgan 09

[Dennis Ray Morgan, Hankuk University of Foreign Studies- South Korea, 10 July 2009, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race, Futures 41 (2009) 683–693, uwyo//amp]

**Given the present day predicament regarding Iran’s attempt to become a nuclear power, particular attention should be given to one of Moore’s scenarios depicting nuclear war that begins through an attack on Iran’s supposed nuclear facilities**. According to Seymour Hersh [12] **the nuclear option against Iran has, in fact, been discussed** by sources in the Pentagon as a viable option. As Hersh reports, **according to a former intelligence officer, the lack of ‘‘reliable intelligence leaves military planners, given the goal of totally destroying the sites, little choice but to consider the use of tactical nuclear weapons. ‘Every other option, in the view of the nuclear weaponeers, would leave a gap,’** the former senior intelligence official said. ‘Decisive is the key word of the Air Force’s planning. **It’s a tough decision. But we made it in Japan**.’’ [12].10 The official continues to explain **how White House and Pentagon officials are considering the nuclear option for Iran, ‘‘Nuclear planners go through extensive training** and learn the technical details of damage and fallout - we’re talking about mushroom clouds, radiation, mass casualties, and contamination over years. This is not an underground nuclear test, where all you see is the earth raised a little bit. **These politicians don’t have a clue, and whenever anybody tries to get it out – remove the nuclear option – they’re shouted down’’** [12]. Understandably, some members of the Joint Chiefs of Staff were not comfortable about consideration of the nuclear option in a first strike, and some officers have even discussed resigning. Hersh quotes the former intelligence officer as saying, ‘‘Late this winter, the Joint Chiefs of Staff sought to remove the nuclear option from the evolving war plans for Iran - without success. The White House said, ‘Why are you challenging this? The option came from you’’’ [12]. **This scenario has gained even more plausibility since a January 2007 Sunday Times report [13] of an Israeli intelligence leak that Israel was considering a strike against Iran, using low-yield bunker busting nukes to destroy Iran’s supposedly secret underground nuclear facilities. In Moore’s scenario, non-nuclear neighboring countries would then respond with conventional rockets and chemical, biological and radiological weapons. Israel then would retaliate with nuclear strikes on several countries, including a pre-emptive strike against Pakistan, who then retaliates with an attack not only on Israel but pre-emptively striking India as well. Israel then initiates the ‘‘Samson option’’ with attacks on other Muslim countries, Russia, and possibly the ‘‘anti-Semitic’’ cities of Europe. At that point, all-out nuclear war ensues as the U.S. retaliates with nuclear attacks on Russia and possibly on China** as well.11 Out of the four interrelated factors that could precipitate a nuclear strike and subsequent escalation into nuclear war, probably the accidental factor is one that deserves particular attention since its likelihood is much greater than commonly perceived. In an article, ‘‘20 Mishaps that Might Have Started a Nuclear War,’’ Phillips [14] cites the historical record to illustrate how an accident, misinterpretation,or false alarm could ignite a nuclear war. Most of these incidents occurred during a time of intense tension between the U.S. and the Soviet Union in the Cuban Missile Crisis, but other mishaps occurred during other times, with the most recent one in 1995. Close inspection of each of these incidents reveals how likely it is that an ‘‘accident’’ or misinterpretation of phenomena or data (‘‘glitch’’) can lead to nuclear confrontation and war. In his overall analysis, Phillips writes: The probability of actual progression to nuclear war on any one of the occasions listed may have been small, due to planned ‘‘failsafe’’ features in the warning and launch systems, and to responsible action by those in the chain of command when the failsafe features had failed. However, the accumulation of small probabilities of disaster from a long sequence of risks adds up to serious danger. There is no way of telling what the actual level of risk was in these mishaps but if the chance of disaster in every one of the 20 incidents had been only 1 in 100, it is a mathematical fact that the chance of surviving all 20 would have been 82%, i.e. about the same as the chance of surviving a single pull of the trigger at Russian roulette played with a 6- shooter. With a similar series of mishaps on the Soviet side: another pull of the trigger. If the risk in some of the events had been as high as 1 in 10, then the chance of surviving just seven such events would have been less than 50:50. [14]12 **Aggression in the Middle East along with the willingness to use low-yield ‘‘bunker busting’’ nukes by the U.S. only increases the likelihood of nuclear war and catastrophe in the future. White House and Pentagon policy-makers are seriously considering the use of strategic nuclear weapons against Iran**. As Ryan McMaken explains, **someone at the Pentagon who had . . .not yet completed the transformation into a complete sociopath leaked the ‘Nuclear Posture Review’ which outlined plans for a nuclear ‘end game’ with Iraq, Iran, Libya, North Korea, and Syria, none of which possess nuclear weapons. The report also outlined plans to let the missiles fly on Russia and China** as well, even though virtually everyone on the face of the Earth thought we had actually normalized relations with them. **It turns out, much to the surprise of the Chinese and the Russians, that they are still potential enemies in a nuclear holocaust.**

#### War turns oppression

Goldstein 01

IR professor at American University (Joshua, War and Gender, p. 412, Google Books)

First, peace activists face a dilemma in thinking about causes of war and working for peace. **Many peace scholars and activists support the approach, “if you want peace, work for justice.”** Then, if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps. among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that **causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices**.9 So, “if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. **Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too**. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, **the emphasis on injustice as the main cause of war seems to be empirically inadequate**.

### AT: Debates now-

#### There is such a wide divide between parties and groups concerning indefinite detention that dramatic changes like the plan will cause a political fight

Cassata 12

(Donna, political editor at the Associated Press. “Facing backlash, House GOP weighs changes to indefinite detention provision of defense law”

WASHINGTON - Facing a conservative backlash, House Republicans are working to change a new law that allows the indefinite detention without trial of terrorist suspects, even U.S. citizens seized within the nation's borders.¶ Republicans and Democratic lawmakers said this week that the GOP majority on the House Armed Services Committee was weighing several proposals to revise the provision on indefinite detention that was part of the far-reaching defense bill that Congress passed in December and President Barack Obama signed into law.¶ Last year, Congress' approach to handling terror suspects divided Republicans and Democrats, pitted the White House against lawmakers and drew fierce opposition from civil liberties groups. The anger still lingers, and GOP leaders are under pressure from a number of rank-and-file members, tea partyers and libertarians to change the law.¶ "I intend to help put as much political pressure on this issue as possible," said Rep. Justin Amash, R-Mich., whose staff has spoken to the Armed Services panel. "I intend to spend a lot of time — and I already have been doing so — making the public aware of this issue so we can get the change we need to address it."¶ Officials for the committee led by Rep. Howard "Buck" McKeon, R-Calif., had no comment on the possible changes to be included in a defense bill, which could be completed this summer. The discussions are preliminary, but one possibility is greater review for those detained indefinitely, said Rep. Adam Smith of Washington state, the committee's top Democrat.¶ Conservatives fear that the detention provision could result in unfettered power for the federal government, allowing it to detain American citizens indefinitely for even a one-time contribution to a humanitarian group that's later linked to terrorism. They argue that would be a violation of long-held constitutional rights. Also disconcerting to the GOP is the reality that the current government is led by Democrat Obama.¶ Several Democrats also have criticized the provision as an example of government overreach and an unnecessary obstacle to the administration's war against terrorism, creating an unusual political coalition in Congress.¶ In the months since the bill became law, some Republicans who backed the legislation have been challenged at town halls and other meetings with constituents, a turn of events that unnerves the GOP.¶ "There clearly has been some blowback and that's what the Republicans are trying to address," Smith said.¶ The indefinite detention provision denies suspected terrorists, including U.S. citizens seized within the nation's borders, the right to trial and subjects them to the possibility they would be held indefinitely. It reaffirms the post-Sept. 11 authorization for the use of military force that allows indefinite detention of enemy combatants. In hopes of quelling the furor, lawmakers added language that said nothing in the law may be "construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States."¶ When Obama signed the bill on Dec. 31, he issued a statement saying he had serious reservations about provisions on the detention, interrogation and prosecution of suspected terrorists. Such signing statements are common and allow presidents to raise constitutional objections to circumvent Congress' intent.¶ "My administration will not authorize the indefinite military detention without trial of American citizens," Obama said in the signing statement. "Indeed, I believe that doing so would break with our most important traditions and values as a nation."¶ In February, the Obama administration outlined new rules on when the FBI, rather than the military, could be allowed to retain custody of al-Qaida terrorism suspects who aren't U.S. citizens but are arrested by federal law enforcement officers. The new procedures spelled out seven circumstances in which the president could place a suspect in FBI, rather than military, custody, including a waiver when it could impede counterterrorism cooperation with another government or when it could interfere with efforts to secure an individual's cooperation or confession.¶ But that's not sufficient for some lawmakers.¶ Smith and Sen. Mark Udall, D-Colo., have introduced legislation that would repeal the provision on indefinite detention and reverse the mandatory military custody for foreign terrorist suspects linked to al-Qaida or its affiliates and involved in plotting or attacking the United States.¶ "I will continue to push that bill," Smith said in an interview. "I know the majority is also putting together some ideas. They're very process-focused. ... I have not seen specifics of that proposal yet and we'll talk to them about it, but obviously I have a much stronger position on that and think that we don't need to have indefinite detention or military custody for the people in the U.S."¶ Amash is determined to change the law, using town halls in his district and the long reach of Facebook to get his message out. He said many Republicans voted for the defense bill in December after they were promised that legislation fixing the provision would be introduced after Christmas. He's still waiting.¶ "What I've seen from members of Armed Services Committee is basically an attempt to justify the language as it stands," Amash said. "And considering the extent to which they've dug in their heels on this issue, I'd be surprised if they're actually going to make a real and credible change to the language."

### AT: No Deal

### 2NC – No Iran Sanctions Wall

#### Obama FOR NOW has fended off the debate on Iranian sanctions—any lag of pressure creates a hostile congress that will successful push a vote to the floor and it will be a veto proof majority—Rubin 2-7

#### Obama has perceptually won the battle over sanctions—but it is close and pressure is mounting

Crittenden 2-5

(Michael, Wall Street Journal. “Congress Eases Standoff With White House Over Iran Sanctions” 2-5-14 https://mail.google.com/mail/u/0/#inbox/1440308321fc2858//wyoccd)

WASHINGTON—The Obama administration appeared to be prevailing in its effort to persuade lawmakers to give U.S. diplomacy with Iran a chance, but faced continued skepticism from senators at a hearing Tuesday.¶ Senior aides said pressure on Senate leaders to allow a vote on new sanctions has eased in recent weeks, as lawmakers gauge the effectiveness of an interim deal reached in November between Iran and world powers.¶ But while many lawmakers said they were willing to give diplomacy time to work, Democrats and Republicans alike said the stakes were high if talks fail.¶ "If these negotiations fail, there are two grim alternatives, a nuclear Iran, or war, or perhaps both," said Sen. Richard Durbin (D., Ill.), a Senate Foreign Relations Committee member.¶ The White House and lawmakers have wrestled over the issue for months. Many in Congress support new sanctions, while the administration insists such a step would disrupt high-level negotiations with Tehran. A six-month deal provides Iran with relief from international sanctions in exchange for enhanced inspections and Tehran's agreement to halt or roll back parts of its nuclear program.¶ Sen. Robert Menendez (D., N.J.), chairman of the Senate Foreign Relations Committee, argued the agreement provides Iran with economic benefits that outpace what Western governments have received in return. He said he remained concerned Iran would never agree to fully put aside its nuclear ambitions.¶ "I am convinced that we should only relieve pressure on Iran in return for verifiable concessions that will fundamentally dismantle Iran's nuclear program," Mr. Menendez said.¶ A top State Department official argued that any move by the U.S. to impose new sanctions would risk unraveling the international talks. "It is crucial we give diplomacy a chance to succeed," Wendy Sherman, the State Department undersecretary of political affairs, told the Foreign Relations panel.¶ President Barack Obama and his administration have urged lawmakers to hold off on additional actions. Mr. Obama vowed in his State of the Union address to veto any bill "that threatens to derail these talks."¶ Lawmakers have bristled at some of the White House criticism, particularly the suggestion that those seeking more sanctions were in favor of war. Sen. Timothy Kaine (D., Va.), addressing those complaints Tuesday, said that those who support new sanctions "are not pro-war and those that oppose it are not soft on Iran or anti-Israel."¶ "We all want exactly the same thing…we all will prefer if we can get to that diplomatically," Mr. Kaine said.¶ Ms. Sherman, stepping back from the more strident administration language, agreed.¶ "I don't believe anyone prefers war," she said, calling the two sides' positions a difference over tactics.

#### [1.] Deal will be successful –interim deal and commitment on both sides make long term deal likely – Obama needs PC to make sure the deals goes over. New sanctions guarantee to wreck this delicate balance

#### [2.] Doesn’t take out the impact – doesn’t rely on a nuclear deal to be accomplished. US passing sanctions prior to letting negotiations play out shows the US acted in bad faith and is at fault for failure which undermines the international sanctions regime and is read as a signal in Iran and Israel that the US supports a unilateral strike strategy – 1NC Rubin and Leubsdorf evidence.

#### [3.] Disad still turns case faster – Who is at fault for negotiation failure matters – US bad faith negotiations draws international condemnation and counterbalancing from China, Russia, Brazil, and Venezuela and undermines American credibility with everyone in the international community including allies. (Read 2NC Impact – Credibility)

#### [4.] Not a winner– it’s defense at best and they’ve conceded sanctions have 100% chance of undermining deal. 50-50 shot is worth risking the aff because the impact is world war III and extinction. At worst delays World War III for 6 months so faster timeframe means it turns risk calculus to Iran top priority – especially because it turns the case.

#### [5.] Even if deal isn’t reached – it sets up another short term deal that can pave the way to continued progress through sticking points

Pace and Klapper 1-24

(Julie and Bradley, writer for the Associated Press. “US Eyes Difficulties in Next Round of Iran Talks” 1-24-14 http://abcnews.go.com/Politics/wireStory/us-eyes-difficulties-round-iran-talks-21642771//wyoccd)

For the United States and its negotiating partners, the next round of nuclear talks with Iran could present a difficult decision: to sign another temporary agreement or accept nothing less than an ambitious, multiyear accord to dismantle the Islamic republic's nuclear program.¶

#### White House push back has blocked sanctions—Pressure on Reid means no vote

Johnson 1/30

(Luke – Huffington Post, “Iran Sanctions Bill 'On Ice' As Momentum Fades In Senate “, 2014, http://www.huffingtonpost.com/2014/01/30/iran-sanctions-bill\_n\_4696197.html)

Another Senate Democratic leadership aide **wouldn't go so far as to call the legislation dead**, but conceded, "Its forward momentum **has been stopped** and even reversed." Both aides requested anonymity in order to speak candidly. The bipartisan bill had been gaining steam over the past two months, picking up a whopping 58 cosponsors -- including 15 Democrats. The measure would boost sanctions on Iran unless it agrees to halt all of its uranium enrichment. But the **White House has been pushing back hard** against any congressional action on Iran sanctions, warning it could thwart a delicate deal in place between Iran and six world powers. Under that six-month deal, Iran would scale back its uranium enrichment in exchange for sanctions relief. Iranian leaders have already warned that any new sanctions would sink the deal, which would leave the U.S. with few options for resolving concerns with Iran apart from going to war. The White House **pressure has paid off**. Reid has refused to bring the bill up for a vote, and during Tuesday's State of the Union, Obama made it clear he would veto the measure if it even made it to his desk. Since then, at least three Democratic cosponsors of the bill have **walked back their support** for taking it up. Several senators acknowledged Thursday that the bill isn't going anywhere, at least not anytime soon. "We want to give the administration the time it needs to negotiate," said Sen. Michael Bennet (D-Colo.), a cosponsor of the bill and the chairman of the Democratic Senatorial Campaign Committee. Asked if his Democratic colleagues are prepared to hold off on pushing the bill amid international negotiations with Iran, he said, "That's my sense." "There's no time frame," said Sen. Ben Cardin (D-Md.), a cosponsor of the bill. "That's up to the majority leader, he's the one who schedules votes ... I've always been comfortable with the fact that our first preference is a negotiated agreement." "Do I think it's going to be brought up? No," said Sen. Carl Levin (D-Mich.). "And I hope it isn't brought up." Republican proponents of the bill conceded the White House has won this round, but said that's a bad thing. "The **pressure from the administration** has made people, **particularly Harry Reid, who's the key guy, back off of it**," said Sen. John McCain (R-Ariz.).

### AT: Struct Violence First

#### There is always value to life, it is subjective—can’t determine for others

Schwartz 2004

[“A Value to Life: Who Decides and How?” www.fleshandbones.com/readingroom/pdf/399.pdf]

Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgement, and value judgements are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality. Nevertheless, quality is still an essential criterion in making such decisions because it gives legitimacy to the possibility that rational, autonomous persons can decide for themselves that their own lives either are worth, or are no longer worth, living. To disregard this possibility would be to imply that no individuals can legitimately make such value judgements about their own lives and, if nothing else, that would be counterintuitive. 2 In our case, Katherine Lewis had spent 10 months considering her decision before concluding that her life was no longer of a tolerable quality. She put a great deal of effort into the decision and she was competent when she made it. Who would be better placed to make this judgement for her than Katherine herself? And yet, a doctor faced with her request would most likely be uncertain about whether Katherine’s choice is truly in her best interest, and feel trepidation about assisting her. We need to know which considerations can be used to protect the patient’s interests. The quality of life criterion asserts that there is a difference between the type of life and the fact of life. This is the primary difference between it and the sanctity criterion discussed on page 115. Among quality of life considerations rest three assertions: 1. there is relative value to life 2. the value of a life is determined subjectively 3. not all lives are of equal value. Relative value The first assertion, that life is of relative value, could be taken in two ways. In one sense, it could mean that the value of a given life can be placed on a scale and measured against other lives. The scale could be a social scale, for example, where the contributions or potential for contribution of individuals are measured against those of fellow citizens. Critics of quality of life criteria frequently name this as a potential slippery slope where lives would be deemed worthy of saving, or even not saving, based on the relative social value of the individual concerned. So, for example, a mother of four children who is a practising doctor could be regarded of greater value to the community than an unmarried accountant. The concern is that the potential for discrimination is too high. Because of the possibility of prejudice and injustice, supporters of the quality of life criterion reject this interpersonal construction in favour of a second, more personalized, option. According to this interpretation, the notion of relative value is relevant not between individuals but within the context of one person’s life and is measured against that person’s needs and aspirations. So Katherine would base her decision on a comparison between her life before and after her illness. The value placed on the quality of a life would be determined by the individual depending on whether he or she believes the current state to be relatively preferable to previous or future states and whether he or she can foresee controlling the circumstances that make it that way. Thus, the life of an athlete who aspires to participate in the Olympics can be changed in relative value by an accident that leaves that person a quadriplegic. The athlete might decide that the relative value of her life is diminished after the accident, because she perceives her desires and aspirations to be reduced or beyond her capacity to control. However, if she receives treatment and counselling her aspirations could change and, with the adjustment, she could learn to value her life as a quadriplegic as much or more than her previous life. This illustrates how it is possible for a person to adjust the values by which they appraise their lives. For Katherine Lewis, the decision went the opposite way and she decided that a life of incapacity and constant pain was of relatively low value to her. It is not surprising that the most vociferous protesters against permitting people in Katherine’s position to be assisted in terminating their lives are people who themselves are disabled. Organizations run by, and that represent, persons with disabilities make two assertions in this light. First, they claim that accepting that Katherine Lewis has a right to die based on her determination that her life is of relatively little value is demeaning to all disabled people, and implies that any life with a severe disability is not worth Write a list of three things that make living. Their second assertion is that with proper help, over time Katherine would be able to transform her personal outlook and find satisfaction in her life that would increase its relative value for her. The first assertion can be addressed by clarifying that the case of Katherine Lewis must not be taken as a general rule. Deontologists, who are interested in knowing general principles and duties that can be applied across all cases would not be very satisfied with this; they would prefer to be able to look to duties that would apply in all cases. Here, a case-based, context-sensitive approach is better suited. Contextualizing would permit freedom to act within a particular context, without the implication that the decision must hold in general. So, in this case, Katherine might decide that her life is relatively valueless. In another case, for example that of actor Christopher Reeve, the decision to seek other ways of valuing this major life change led to him perceiving his life as highly valuable, even if different in value from before the accident that made him a paraplegic. This invokes the second assertion, that Katherine could change her view over time. Although we recognize this is possible in some cases, it is not clear how it applies to Katherine. Here we have a case in which a rational and competent person has had time to consider her options and has chosen to end her life of suffering beyond what she believes she can endure. Ten months is a long time and it will have given her plenty of opportunity to consult with family and professionals about the possibilities open to her in the future. Given all this, it is reasonable to assume that Katherine has made a well-reasoned decision. It might not be a decision that everyone can agree with but if her reasoning process can be called into question then at what point can we say that a decision is sound? She meets all the criteria for competence and she is aware of the consequences of her decision. It would be very difficult to determine what arguments could truly justify interfering with her choice. The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. § Marked 08:11 § The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

**Preventing extinction is the highest ethical priority – we should take action to prevent the Other from dying FIRST, only THEN can we consider questions of value to life**

Paul **Wapner**, associate professor and director of the Global Environmental Policy Program at American University, Winter **2003**, Dissent, online: http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm

All attempts to listen to nature are social constructions-except one**. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existenc**e. As I have said, postmodernists accept that **there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character**. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But **we need not doubt the simple idea that a prerequisite of expression is existence. This in turn suggests that preserving the nonhuman world**-in all its diverse embodiments-**must be seen by eco-critics as a fundamental good. Eco-critics must be supporters,** in some fashion, **of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity**. In fact, **if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative** and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless**, I can't see how postmodern critics can do otherwise than accept the value of preserving the** nonhuman **world**. The nonhuman **is the extreme "other"; it stands in contradistinction to humans** as a species**. In understanding the constructed quality of human experience and** the dangers of reification, postmodernism inherently advances an ethic of **respecting the "other.**" At the very least, respect **must involve ensuring that the "other"** actually **continues to exist.** In our day and age, **this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth'**s diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

#### Consequentialism is key to ethical decision making, because it ensures beings are treated as equal—any other approach to ethics is arbitrary because it considers one’s preferences as more important than others

Lillehammer, 2011

[Hallvard, Faculty of Philosophy Cambridge University, “Consequentialism and global ethics.” Forthcoming in M. Boylan, Ed., Global Morality and Justice: A Reader, Westview Press, Online, <http://www.phil.cam.ac.uk/teaching_staff/lillehammer/Consequentialism_and_Global_Ethics-1-2.pdf>] /Wyo-MB

Contemporary discussions of consequentialism and global ethics have been marked by a focus on examples such as that of the shallow pond. In this literature, distinctions are drawn and analogies made between different cases about which both the consequentialist and his or her interlocutor are assumed to have a more or less firm view. One assumption in this literature is that progress can be made by making judgements about simple actual or counterfactual examples, and then employing a principle of equity to the effect that like cases be treated alike, in order to work out what to think about more complex actual cases. It is only fair to say that in practice such attempts to rely only on judgements about simple cases have a tendency to produce trenchant stand-offs. It is important to remember, therefore, that for some consequentialists the appeal to simple cases is neither the only, nor the most basic, ground for their criticism of the ethical status quo. For some of the historically most prominent consequentialists the evidential status of judgements about simple cases depends on their derivability from basic ethical principles (plus knowledge of the relevant facts). Thus, in The Methods of Ethics, Henry Sidgwick argues that ethical thought is grounded in a small number of self-evident axioms of practical reason. The first of these is that we ought to promote our own good. The second is that the good of any one individual is objectively of no more importance than the good of any other (or, in Sidgwick’s notorious metaphor, no individual’s good is more important ‘from the point of view of the Universe’ than that of any other). The third is that we ought to treat like cases alike. Taken together, Sidgwick takes these axioms to imply a form of consequentialism. We ought to promote our own good. Yet since our own good is objectively no more important than the good of anyone else, we ought to promote the good of others as well. And in order to treat like cases alike, we have to weigh our own good against the good of others impartially, all other things being equal. iv It follows that the rightness of our actions is fixed by what is best for the entire universe of ethically relevant beings. To claim otherwise is to claim for oneself and one’s preferences a special status they do not possess. When understood along these lines, consequentialism is by definition a global ethics: the good of everyone should count for everyone, no matter their identity, location, or personal and social attachments, now or hereafter. v Some version of this view is also accepted by a number of contemporary consequentialists, including Peter Singer, who writes that it is ‘preferable to proceed as Sidgwick did: search for undeniable fundamental axioms, [and] build up a moral theory from them’ (Singer 1974, 517; Singer 1981). For these philosophers the question of our ethical duties to others is not only a matter of our responses to cases like the shallow pond. It is also a matter of whether these responses cohere with an ethics based on first principles. If you are to reject the consequentialist challenge, therefore, you will have to show what is wrong with those principles.

### 2NC- Obama PC Key

#### [2.] PC key—forces dems to back off and strong arm repubs

Raju and Everett 2-6

(Manu and Burgess, Politico. “Bill Clinton urges delay on Iran sanctions” 2-6-14 http://www.politico.com/story/2014/02/bill-clinton-iran-sanctions-103219.html//wyoccd)

But Senate Republicans, and a number of hawkish Senate Democrats, have long been skeptical of the talks and are deeply distrustful of Iran, arguing that failing to impose stricter sanctions on the country will only aid its pursuit of nuclear weapons.¶ Led by Sens. Mark Kirk (R-Ill.) and Robert Menendez (D-N.J.), a large bipartisan group of senators is pushing legislation to drastically limit Iran’s ability to export petroleum if the Islamic Republic breaks the conditions of an interim agreement or abandons a permanent nuclear deal with global powers. It also would require a dramatic rollback of Iran’s nuclear program as a condition for further lifting existing sanctions.¶ But the White House is increasing pressure by urging Senate Democrats who back the bill to avoid acting until after the six-months of negotiations play out. After Obama made a similar case during his State of the Union address, several Democrats who back the sanctions bill — like Sen. Chris Coons of Delaware — privately urged party leaders to postpone a vote for now.¶ “I think most of us feel these negotiations should have a chance,” Senate Majority Whip Dick Durbin (D-Ill.) said Thursday. “The alternative to Iran negotiations are to a nuclear-armed Iran, which is unacceptable, or a war, equally unacceptable. We have to give these negotiations a chance.”¶ As Democrats toned down their rhetoric, Republicans have increasingly pushed Senate Majority Leader Harry Reid (D-Nev.) to schedule a vote on the issue, including in a Thursday letter to the Nevada Democrat, which was signed by 42 GOP senators.¶ “Now we have come to a crossroads,” the Republicans wrote in the letter spearheaded by Kirk. “Will the Senate allow Iran to keep its illicit nuclear infrastructure in place, rebuild its teetering economy and ultimately develop nuclear weapons at some point in the future — or will the Senate stand firm on behalf of the American people and insist that any final agreement with Iran must dismantle the regime’s illicit nuclear infrastructure and preclude the world’s foremost state sponsor of terrorism from ever producing nuclear weapons?”¶ Reid lashed out at the Republicans when asked about the issue on Thursday.¶ “It’s not a partisan issue,” Reid said. “It’s a serious, serious situation. For me to receive a totally partisan letter, we should not make this a partisan issue, and that’s what 42 Republicans have done. And I think it’s wrong.”¶ Reid wouldn’t respond when asked if he would schedule the measure for a vote before the negotiations conclude.

#### [3.] Obama PC key to quash sanctions momentum

Dellamore 2-5

(Erin, MSNBC. “Democrats split over Syria, Iran” 2-5-14 http://www.msnbc.com/all/democrats-split-over-syria-iran//wyoccd)

Over strong objections from the president, 16 Senate Democrats support a bill that would impose new sanctions on Iran should the country fail to reach a permanent agreement with international negotiators to roll back its nuclear program. Those senators, along with 43 Republicans, argue that tough sanctions brought Iran to the negotiating table in the first place and further pressure would flex American muscle in the 6-month talks toward crafting a permanent solution. The bill drew support from Sens. Chuck Schumer, D-N.Y, and Harry Reid, D-Nev., both close allies of Obama’s but also leading supporters of policies favoring Israel. The American Israel Public Affairs Committee, America’s most powerful pro-Israel advocacy group, has lobbied members of Congress from both parties to support the sanctions.¶ Other Democrats are siding with the Obama administration, which argues that imposing new sanctions damaged “good-faith” negotiations while empowering Iran’s hard-liners rooting for the talks to fail. (A National Security Council spokeswoman charged last month that the sanctions bill could end negotiations and bring the U.S. closer to war.) ¶ The Senate bill has been losing steam ever since the White House ratcheted up pressure on Senate Democrats to abandon the it. Introduced in December by Democrat Robert Menendez, D-N.J. and Sen. Mark Kirk. R-Ill., the legislation was backed by 59 members – but now Senate leaders say they will hold off bringing the legislation to a vote until the six-month negotiation process ends.¶ Adam Sharon, a spokesman for the Senate Foreign Relations Committee, which Menendez chairs, said the New Jersey Senator stands behind the bill that bears his name. ¶ Menendez and 58 other senators support the bill, Sharon said. “It’s his bill, three or four senators say they wouldn’t call for a vote now. His position has been, having a bill, having this in place is an extremely effective and necessary tool when negotiating with the Iranians that we need to have to avoid Iran crossing the nuclear threshold. He stands behind this bill and the whole essence of the bill is to have sanctions in waiting, but you have to move on them now to make it happen.”¶ The movement is still alive in the House with enough votes to pass, despite a letter signed by at least 70 Democrats opposing the measure, and a letter of criticism by former Secretary of State Hillary Clinton. Obama reiterated in last week’s State of the Union address a promise to veto any attempt to impose new sanctions on Iran.¶ Wendy Sherman, the lead U.S. negotiator, acknowledged this week that the temporary agreement with Iran “is not perfect,” calling it a first step on the way to a final agreement.¶ “This is not perfect but this does freeze and roll back their program in significant ways and give us time on the clock to in fact negotiate that comprehensive agreement,” Sherman said Tuesday before the Senate Foreign Relations Committee.¶ The deal reached in November promised the easing of up to $8 billion in sanctions in exchange for Iran’s agreement to slow its nuclear program and allow verification by international inspectors. Iran insists its nuclear facilities are for civilian energy use but other nations fear they could be used to build nuclear weapons. The deal struck by the U.S., Britain, France, China, Russia and Germany extends for a six-month period while all parties try to reach a more permanent solution.

### 2NC Link Wall

#### [1.] Political capital link – Congressional criticism forces Obama to expend energy defending or changing his policy which forces a zero sum drop off of political capital necessary to accomplish his foreign policy goals – Kriner 10 – prefer our ev because cites historical example of Vietnam and political science theorists.

#### [2.] Losers lose link – plan is a perceived loss for Obama that saps his capital- answers your Plan increases cap

Loomis, 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, ¶ In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. ¶ Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. ¶ The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.¶ This brief review of the literature suggests how legitimacy norms enhance presidential influence in ways that structural powers cannot explain. Correspondingly, increased executive power improves the prospects for policy success. As a variety of cases indicate—from Woodrow Wilson’s failure to generate domestic support for the League of Nations to public pressure that is changing the current course of U.S. involvement in Iraq—the effective execution of foreign policy depends on public support. Public support turns on perceptions of policy legitimacy. As a result, policymakers—starting with the president—pay close attention to the receptivity that U.S. policy has with the domestic public. In this way, normative influences infiltrate policy-making processes and affect the character of policy decisions.¶ **Political capital is finite --- the plan would tradeoff with domestic economic priorities** ¶ **Moore, 9/10** --- Guardian's US finance and economics editor¶ (Heidi, 9/10/2013, “Syria: the great distraction; Obama is focused on a conflict abroad, but the fight he should be gearing up for is with Congress on America's economic security,” <http://www.theguardian.com/commentisfree/2013/sep/10/obama-syria-what-about-sequester)>)¶ Before President Obama speaks to the nation about Syria tonight, take a look at what this fall will look like inside America.¶ There are 49 million people in the country who suffered inadequate access to food in 2012, leaving the percentage of "food-insecure" Americans at about one-sixth of the US population. At the same time, Congress refused to pass food-stamp legislation this summer, pushing it off again and threatening draconian cuts.¶ **The country will crash into the debt ceiling in mid-October, which would be an economic disaster, especially with a government shutdown looming at the same time. These are deadlines that Congress already learned two years ago not to toy with, but memories appear to be preciously short.**¶ The Federal Reserve needs a new chief in three months, someone who will help the country confront its raging unemployment crisis that has left 12 million people without jobs. The president has promised to choose a warm body within the next three weeks, despite the fact that his top pick, Larry Summers, would likely spark an ugly confirmation battle – the "fight of the century," according to some – with a Congress already unwilling to do the President's bidding.¶ Congress was supposed to pass a farm bill this summer, but declined to do so even though the task is already two years late. As a result, the country has no farm bill, leaving agricultural subsidies up in the air, farmers uncertain about what their financial picture looks like, and a potential food crisis on the horizon.¶ The two main housing agencies, Fannie Mae and Freddie Mac, have been in limbo for four years and are desperately in need of reform that should start this fall, but there is scant attention to the problem.¶ These are the problems going unattended by the Obama administration while his aides and cabinet members have been wasting the nation's time making the rounds on television and Capitol Hill stumping for a profoundly unpopular war. The fact that all this chest-beating was for naught, and an easy solution seems on the horizon, belies the single-minded intensity that the Obama White House brought to its insistence on bombing Syria.¶ More than one wag has suggested, with the utmost reason, that if Obama had brought this kind of passion to domestic initiatives, the country would be in better condition right now. As it is, public policy is embarrassingly in shambles at home while the administration throws all of its resources and political capital behind a widely hated plan to get involved in a civil war overseas.¶ The upshot for the president may be that it's easier to wage war with a foreign power than go head-to-head with the US Congress, even as America suffers from neglect.¶ This is the paradox that President Obama is facing this fall, as he appears to turn his back on a number of crucial and urgent domestic initiatives in order to spend all of his meager political capital on striking Syria.¶ Syria does present a significant humanitarian crisis, which has been true for the past two years that the Obama administration has completely ignored the atrocities of Bashar al-Assad.¶ Two years is also roughly the same amount of time that key domestic initiatives have also gone ignored as Obama and Congress engage in petty battles for dominance and leave the country to run itself on a starvation diet imposed by sequestration cuts. Leon Panetta tells the story of how he tried to lobby against sequestration only to be told:¶ Leon, you don't understand. The Congress is resigned to failure.¶ Similarly, those on Wall Street, the Federal Reserve, those working at government agencies, and voters themselves have become all too practiced at ignoring the determined incompetence of those in Washington.¶ **Political capital – the ability to horse-trade and win political favors from a receptive audience – is a finite resource in Washington. Pursuing misguided policies takes up time, but it also eats up credibility in asking for the next favor.** It's fair to say that **congressional Republicans**, particularly in the House, **have no love for Obama and are likely to oppose anything he supports. That's exactly the reason the White House should stop proposing policies as if it is scattering buckshot and focus with intensity on the domestic tasks it wants to accomplish, one at a time.**

#### [3.] Presidential flexibility link - Independent of the political capital debate plan undermines negotiations with Iran because it sends signal that congress is taking greater foreign policy authority - Obama’s perceived flexibility is key to ensure diplomatic success.

**Benen**, writer for MSNBC and producer of the Rachel Maddow show, **9/20**/2013

(Steve, “When crises become opportunities,” http://maddowblog.msnbc.com/\_news/2013/09/20/20599445-when-crises-become-opportunities?lite)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.¶ That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were **hard to even imagine up until very recently**.¶ This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."¶ Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."¶ The New York Times added that **Iranian leaders**, "**seizing on perceived flexibility** in a private letter **from** President **Obama**, **have decided to gamble on** forging **a swift agreement over their nuclear program with the goal of ending crippling sanctions**."¶ David Sanger summarized the bigger picture nicely.¶ Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.¶ Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.¶ The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."¶ So what happens next?¶ The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President **Obama's pragmatism** "**has sent exactly the right signals to Iran**, particularly **at this** very **sensitive moment**."¶ Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. **He's been consistent as well as flexible**, **which gave Assad big incentives to cooperate** when he might have otherwise dug in his heels.¶ There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. **He's** also **been clear that the U**nited **S**tates is using severe economic sanctions to coerce Tehran to cooperate and that it **would use military force if necessary**. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.¶ Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. **Iran's supreme leader has been talking a lot lately about** flexibility and **diplomacy toward the West**. **So it's an ideal moment for Obama to be demonstrating flexibility** and diplomacy toward the Middle East.

### 2NC AT: Plan Popular

#### Political capital finite:

#### A. PC finite – opportunity cost

Hayward 12

[John, writer at Human Events. “DON’T BE GLAD THE BUFFETT RULE IS DEAD, BE ANGRY IT EVER EXISTED,” 4/17, <http://www.humanevents.com/2012/04/17/dont-be-glad-the-buffett-rule-is-dead-be-angry-it-ever-existed/>]

Toomey makes the excellent point that Obama’s class-warfare sideshow act is worse than useless, because it’s wasting America’s valuable time, even as the last fiscal sand runs through our hourglass. Politicians speak of “political capital” in selfish terms, as a pile of chips each party hoards on its side of the poker table, but in truth America has only a finite amount of political capital in total. When time and energy is wasted on pointless distractions, the capital expended---in the form of the public’s attention, and the debates they hold among themselves---cannot easily be regained. ¶ There is an “opportunity cost” associated with the debates we aren’t having, and the valid ideas we’re not considering, when our time is wasted upon nonsense that is useful only to political re-election campaigns. Health care reform is the paramount example of our time, as countless real, workable market-based reforms were obscured by the flaccid bulk of ObamaCare. The Buffett Rule, like all talk of tax increases in the shadow of outrageous government spending, likewise distracts us from the real issues.

#### B. PC finite – Obama perceives and acts like it

Burnett, 13

Bob Burnett, Founding Executive @ CiscoSystems, Berkeley writer, journalist, columnist @ huffington post, 4/5, <http://www.huffingtonpost.com/bob-burnett/keystone-xl-obama_b_3020154.html>

On April 3 and 4, President Obama spoke at several San Francisco fundraisers. While he didn't specifically mention the Keystone XL pipeline, the tenor of his remarks indicated that he's likely to approve the controversial project. Obama seems to be most influenced by his inherent political pragmatism. I've heard Barack Obama speak on several occasions. The first was February 19, 2007, at a San Francisco ore-election fundraiser with a lengthy question and answer session. Towards the end of the event a woman asked then presidential-candidate Obama what his position was on same-sex marriage. For an instant, Obama seemed surprised; then he gathered himself and responded he was aware of strong feelings on both sides of this issue and his position was evolving. Five years later, in May of 2012, President Obama announced his support for same-sex marriage. What took Obama so long to make up his mind? No doubt he needed to clarify his own moral position -- although the Protestant denomination he was baptized into, the United Church of Christ, announced its support for same-sex marriage in 2005. But I'm sure the president carefully weighed the political consequences and, last May, thought the timing was right. Over the last six years I've realized Barack Obama has several personas. On occasion he moves us with stirring oratory; that's Reverend Obama, the rock star. Once in a while, he turns philosophical; that's Professor Obama, the student of American history. On April 3, I saw Politician Obama, the pragmatic leader of the Democratic Party. Obama has learned that, as president, he only gets a fixed amount of political capital each year and has learned to ration it. In 2007, he didn't feel it was worth stirring up controversy by supporting same-sex marriage; in 2012 he thought it was. He's a cautious pragmatist. He doesn't make snap decisions or ones that will divert his larger agenda. Intuitively, most Democrats know this about the president. At the beginning of 2012, many Democratic stalwarts were less than thrilled by the prospect of a second Obama term. While their reasons varied, there was a common theme, "Obama hasn't kept his promises to my constituency." There were lingering complaints that 2009's stimulus package should have been bigger and a communal whine, "Obama should have listened to us." Nonetheless, by the end of the Democratic convention on September 6, most Dems had come around. In part, this transformation occurred because from January to September of 2012 Dems scrutinized Mitt Romney and were horrified by what they saw. In January some had muttered, "There's no difference between Obama and Romney," but nine months later none believed that. While many Democrats were not thrilled by Obama's first-term performance, they saw him as preferable to Romney on a wide range of issues. In 2009, Obama got a bad rap from some Dems because they believed he did not fight hard enough for the fiscal stimulus and affordable healthcare. In March of 2011, veteran Washington columnist, Elizabeth Drew, described Obama as: ... a somewhat left-of-center pragmatist, and a man who has avoided fixed positions for most of his life. Even his health care proposal -- denounced by the right as a 'government takeover' and 'socialism' -- was essentially moderate or centrist. When he cut a deal on the tax bill, announced on December 7 [2010], he pragmatically concluded that he did not have the votes to end the Bush tax cuts for the wealthiest, and in exchange for giving in on that he got significant concessions from the Republicans, such as a fairly lengthy extension of unemployment insurance and the cut in payroll taxes. Making this deal also left him time to achieve other things -- ratification of the START treaty, the repeal of don't ask, don't tell. Drew's description of the president as a "left-of-center pragmatist" resonates with my sense of him. He is a political pragmatist who, over the past five years, has learned to guard his political capital and focus it on his highest priorities. In this year's State-of-the-Union address half of the president's remarks concerned jobs and the economy. We gather here knowing that there are millions of Americans whose hard work and dedication have not yet been rewarded. Our economy is adding jobs -- but too many people still can't find full-time employment. Corporate profits have rocketed to all-time highs -- but for more than a decade, wages and incomes have barely budged. It is our generation's task, then, to reignite the true engine of America's economic growth -- a rising, thriving middle class. He also spoke passionately about the need to address to address global warming, "For the sake of our children and our future, we must do more to combat climate change." But it's clear that's a secondary objective. At one of the Bay Area fundraisers, President Obama observed that his big challenge is to show middle-class families that, "we are working just as hard for them as we are for an environmental agenda." Obama isn't going to block the Keystone XL pipeline because he doesn't believe that he can make the case his action will help the middle-class. He's conserving his political capital. He's being pragmatic.